UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Ivan Arnold, on behalf of himself and all others similarly situated,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 1:16-cv-00374-LY
	§	
HomeAway, Inc. and **Does 1–10**,	§	
	§	
Defendants.	§	

APPENDIX TO DEFENDANT HOMEAWAY, INC.'S
MOTION TO COMPEL ARBITRATION AND DISMISS THIS CASE

Pursuant to Local Rule CV-7(d)(1) of the Local Rules for the Western District of Texas, Defendant HomeAway, Inc. submits this appendix to its Motion to Compel Arbitration and Dismiss this Case. This Appendix contains true and correct copies of each of the following:

Exhibit 1 Declaration of Ameli Agbodan (July 8, 2016)

A. Ivan Arnold's HomeAway "Dashboards"

B. Screen Shots of Renewal Process

Exhibit 2 Declaration of Courtney Dickey (July 8, 2016)

A. HomeAway Terms and Conditions (updated Apr. 28, 2016)

B. AAA Consumer Arbitration Rules (effective Sept. 1, 2014)

Dated: July 11, 2016

Respectfully submitted,

SCOTT DOUGLASS & MCCONNICO LLP
303 Colorado Street, Suite 2400
Austin, Texas 78701
(512) 495-6300 Telephone
(512) 495-6399 Facsimile

By: */s/ David D. Shank*

Stephen E. McConnico
State Bar No. 13450300
smcconnico@scottdoug.com

Michael L. Merriman
State Bar No. 24027977
mmerriman@scottdoug.com

David D. Shank
State Bar No. 24075056
dshank@scottdoug.com

Attorneys for Defendant HomeAway, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of this motion upon each attorney of record and the original upon the Clerk of the Court on this the 11th day of July, 2016.

/s/ David D. Shank
David D. Shank

EXHIBIT 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Ivan Arnold, on behalf of himself and all others similarly situated,	§	
Plaintiff,	§	
v.	§	Case No. 1:16-cv-00374-LY
HomeAway, Inc. and **Does 1–10**,	§	
Defendants.	§	

DECLARATION OF AMELI AGBODAN

1. My name is Ameli Agbodan. I am an Order Management Product Manager at HomeAway.com, Inc. ("HomeAway"). In that capacity, I am familiar with the process by which customers purchase services offered by HomeAway through its websites. I am also familiar with accessing information that customers provide to HomeAway, such as their purchases, property listings, and the like. I have held the position of Order Management Product Manager from November 2015 until the present. From February 2015 to November 2015, I held the position of PM Cart and Order Management Tool Product Manager which included, among other things, the same responsibilities as described above. I have worked with HomeAway as a consultant or employee in various capacities since 2009, and am familiar with all the services that HomeAway offers to its customers.

2. HomeAway provides websites where individuals who own or manage vacation properties, such as homes, apartments, or condominiums, can list their properties as vacation rentals for rent by travelers worldwide. HomeAway's websites serve both "members," the individuals who own or manage vacation properties for rent and "travelers,"

the individuals who rent the properties. HomeAway operates several websites on which members can rent properties to travelers. Depending on a member's needs, including, for example, the location of their property, the provenance of travelers most likely to rent the property, the type of property, and the frequency with which a member rents his or her property, HomeAway offers members different website options for listing properties. In the United States, these websites include HomeAway.com, VRBO.com (short for Vacation Rental By Owner), and VacationRentals.com.

3. HomeAway members have the opportunity to earn significant income from their properties. Members can provide photographs of their properties, extensive descriptions, interactive maps, and reservations calendars. Secure payment systems, well-established policies and procedures, and other protections are provided for HomeAway's members to safely and securely profit from the popular and growing internet vacation rental market. HomeAway's websites have over one million listings, and are top ranked on industry leading search engines, such as Google. VRBO members, for example, can reach over 44 million travelers each month.

4. Members not only have different website options, but also have various pricing options for listing their properties. Members pay to list their homes on HomeAway's websites in one of two ways. Members can purchase subscriptions. Subscriptions are available for varying durations and at different levels on most of HomeAway's websites. Alternatively, members who use HomeAway's websites can list their homes through a pay-per-booking option. With pay-per-booking, members pay only for the bookings received instead of paying an upfront fee for a subscription.

5. On July 5, 2016, I accessed data that HomeAway customer Ivan Arnold provided to HomeAway for listing his vacation properties for rent. Specifically, through VRBO.com, Mr. Arnold listed two vacation properties for rent identified as follows by Mr. Arnold's advertising description and VRBO's numerical identifier in the parenthetical: The Cosmopolitan – Luxury Villa in Vista Las Palmas ("The Cosmopolitan") (558812); and Mid-Modern Luxury Dream! ("Luxury Dream") (467294). Both The Cosmopolitan and Luxury Dream are subscription listings. Attached hereto as **Exhibit A** is a true and correct copy of Mr. Arnold's "dashboards" which lists his two properties and, in the left margin, various tools that assist him with management of his properties and advertisement of them on HomeAway's websites. (Mr. Arnold provided different email addresses for each property which gives him two separate dashboards.) Also shown on Mr. Arnold's dashboards for his properties are inquiries from travelers interested in renting his properties; names and account numbers for those travelers are redacted to protect their privacy.

6. In addition to listing his two properties, Mr. Arnold provided information to HomeAway including his billing address. The billing address he provided for both properties is located in California.

7. On May 12, 2016, Mr. Arnold renewed his Platinum Level subscription and purchased a global bundle for his Luxury Dream property (467294). The subscription and bundle he purchased allows him to list his property for rent on HomeAway's domestic and international network of vacation rental websites and take advantage of approximately 750 million annual visits to those websites. Before making his May 12, 2016 purchase, Mr. Arnold was first required to agree to HomeAway's Terms and Conditions in effect at

that time. In order to confirm and complete his transaction, Mr. Arnold checked a box next to the phrase, "I accept the Terms and Conditions …"; the words "Terms and Conditions," appearing in blue in that phrase, are a hyperlink which linked to HomeAway's then-effective Terms and Conditions.

8. Attached hereto as **Exhibit B** is a true and correct copy of screen shots that accurately represent the steps that Mr. Arnold went through for his May 2016 purchase of the platinum subscription and global bundle for his Luxury Dream property (467294), along with a narrative I added to explain each of the screen shots. (A "screen shot" is like a photograph of the computer screen that Mr. Arnold would have seen.) First, he would have seen that his Platinum subscription listing for his Luxury Dream property (467294) expired on May 16, 2016, and clicked "Renew Now" as illustrated on Page 1 of Exhibit B; please note that the "Expired On" date of "7/9/16" listed on page 1 of Exhibit B is not the actual date of expiration of Mr. Arnold's subscription but nonetheless illustrates (from a "test" account that simulates the live, "production" environment) a renewal like that Mr. Arnold purchased four days prior to expiration of his subscription. Second, he had the choice between the type of annual subscription he wished to purchase, as illustrated on Page 2 of Exhibit B, and he selected a Platinum subscription. Third, he had the option to add a U.S. Bundle or Global Bundle for the purpose of getting more exposure for his property by adding additional HomeAway websites, as shown on page 3 of Exhibit B; Mr. Arnold chose the Global Bundle which includes listing of his property on HomeAway's international as well as domestic websites. Fourth, he verified various information and was required to agree to HomeAway's Terms and Conditions, by clicking on the box next to, "I accept the Terms

and Conditions and Privacy Policy," before proceeding to the next screen, as shown Page 4 of Exhibit B. If he tried to continue before agreeing to HomeAway's Terms and Conditions, he would have seen an error message as shown on Page 5 of Exhibit B, stating: "Please read and accept the terms and conditions." Only after agreeing to HomeAway's Terms and Conditions could Mr. Arnold proceed to purchase and take advantage of HomeAway's international network of websites.

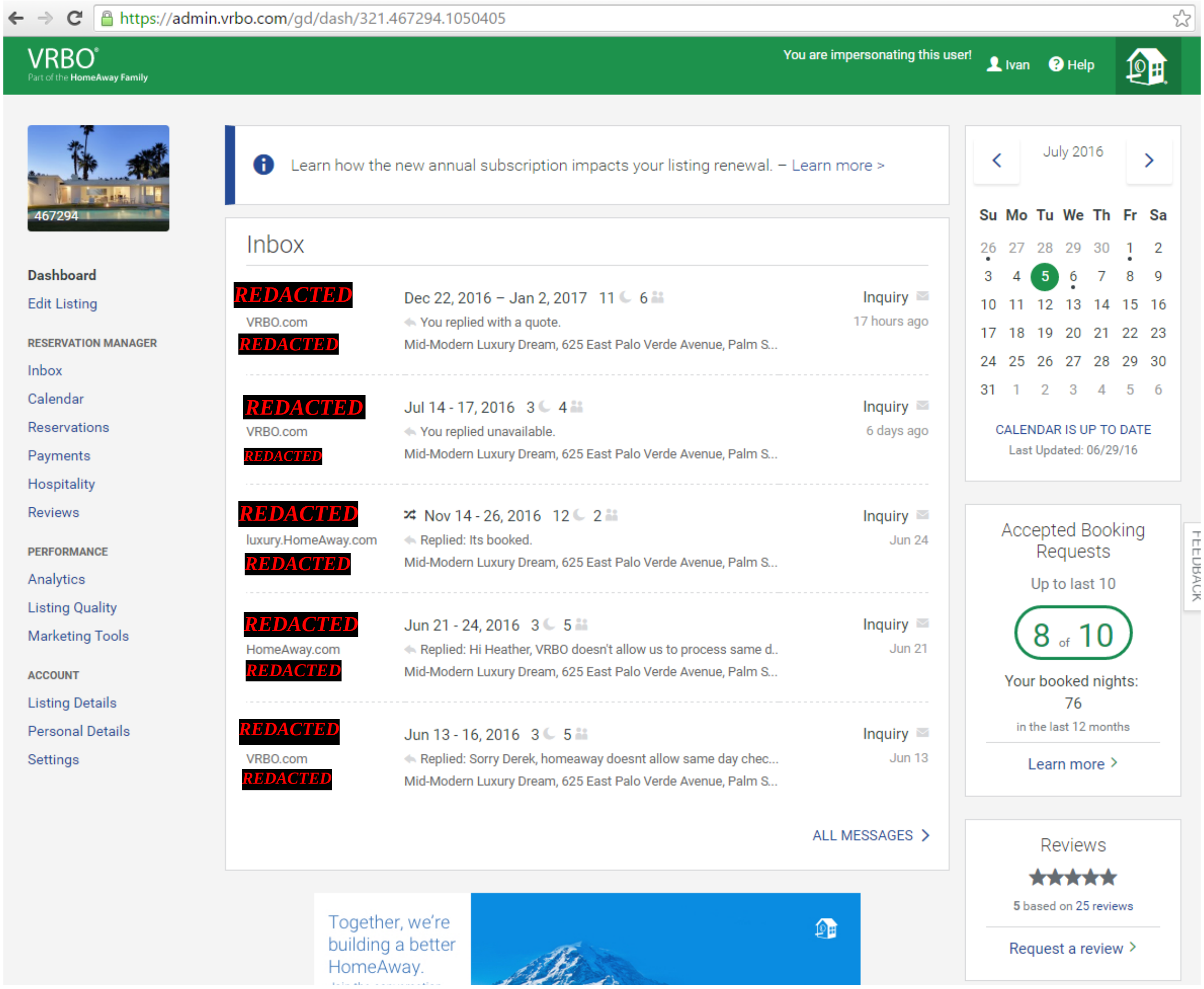
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 8, 2016

Ameli Agbodan

EXHIBIT A

Mr Arnold has two separate owner dashboards. One for listing 467294 under email ivan@milktruck.com


https://admin.vrbo.com/gd/dash/321.467294.1050405
VRBO
Part of the HomeAway Family
You are impersonating this user!
Ivan
Help
467294
Dashboard
Edit Listing
RESERVATION MANAGER
Inbox
Calendar
Reservations
Payments
Hospitality
Reviews
PERFORMANCE
Analytics
Listing Quality
Marketing Tools
ACCOUNT
Listing Details
Personal Details
Settings
Learn how the new annual subscription impacts your listing renewal. – Learn more >
Inbox
REDACTED
Dec 22, 2016 – Jan 2, 2017 11 6
Inquiry
VRBO.com
You replied with a quote.
17 hours ago
REDACTED
Mid-Modern Luxury Dream, 625 East Palo Verde Avenue, Palm S...
REDACTED
Jul 14 - 17, 2016 3 4
Inquiry
VRBO.com
You replied unavailable.
6 days ago
REDACTED
Mid-Modern Luxury Dream, 625 East Palo Verde Avenue, Palm S...
REDACTED
Nov 14 - 26, 2016 12 2
Inquiry
luxury.HomeAway.com
Replied: Its booked.
Jun 24
REDACTED
Mid-Modern Luxury Dream, 625 East Palo Verde Avenue, Palm S...
REDACTED
Jun 21 - 24, 2016 3 5
Inquiry
HomeAway.com
Replied: Hi Heather, VRBO doesn't allow us to process same d..
Jun 21
REDACTED
Mid-Modern Luxury Dream, 625 East Palo Verde Avenue, Palm S...
REDACTED
Jun 13 - 16, 2016 3 5
Inquiry
VRBO.com
Replied: Sorry Derek, homeaway doesnt allow same day chec...
Jun 13
REDACTED
Mid-Modern Luxury Dream, 625 East Palo Verde Avenue, Palm S...
ALL MESSAGES
Together, we're building a better HomeAway.
July 2016
Su Mo Tu We Th Fr Sa
26 27 28 29 30 1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31 1 2 3 4 5 6
CALENDAR IS UP TO DATE
Last Updated: 06/29/16
Accepted Booking Requests
Up to last 10
8 of 10
Your booked nights:
76
in the last 12 months
Learn more
FEEDBACK
Reviews
5 based on 25 reviews
Request a review

And another for listing 558812 under email ivan@melekai.com

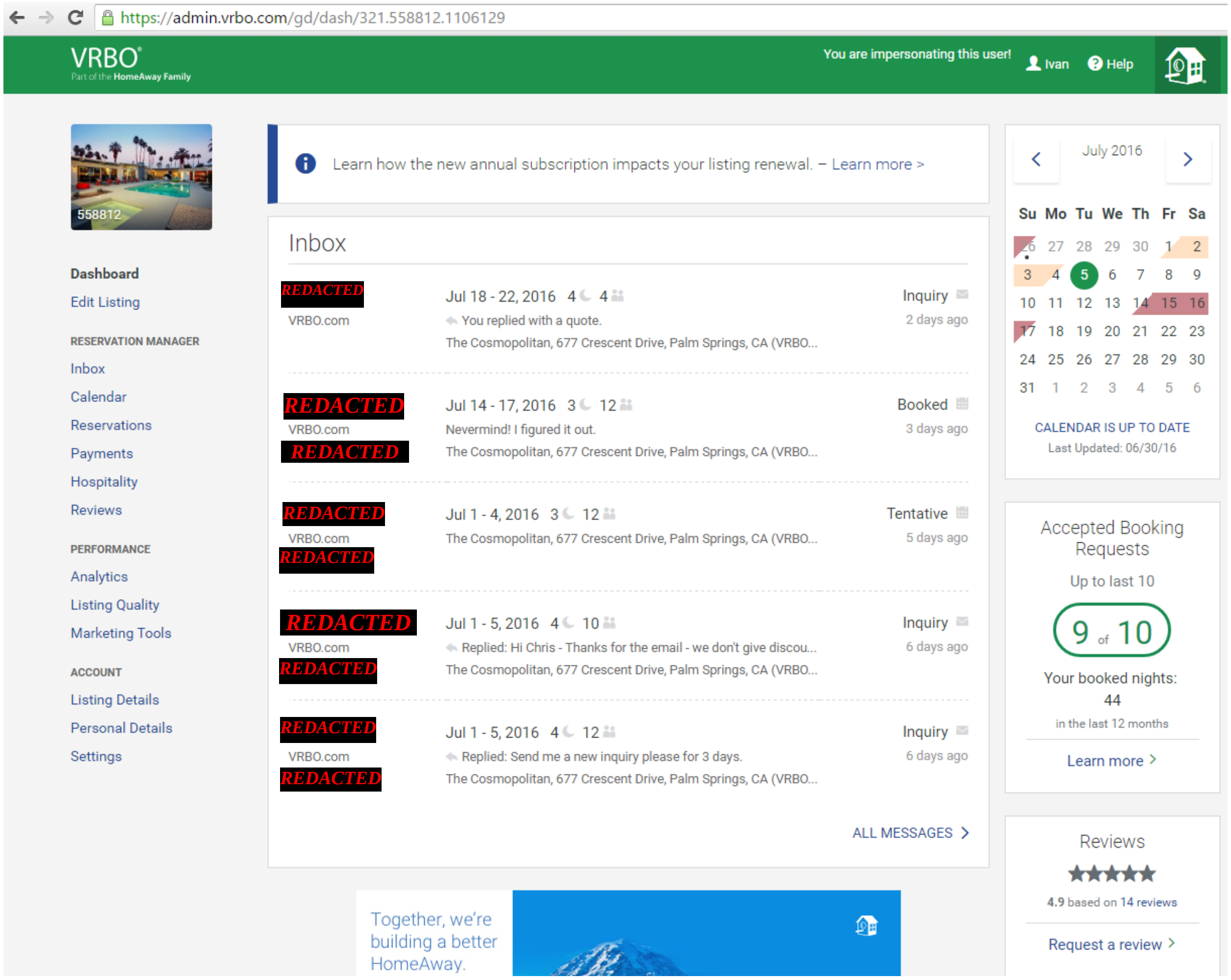
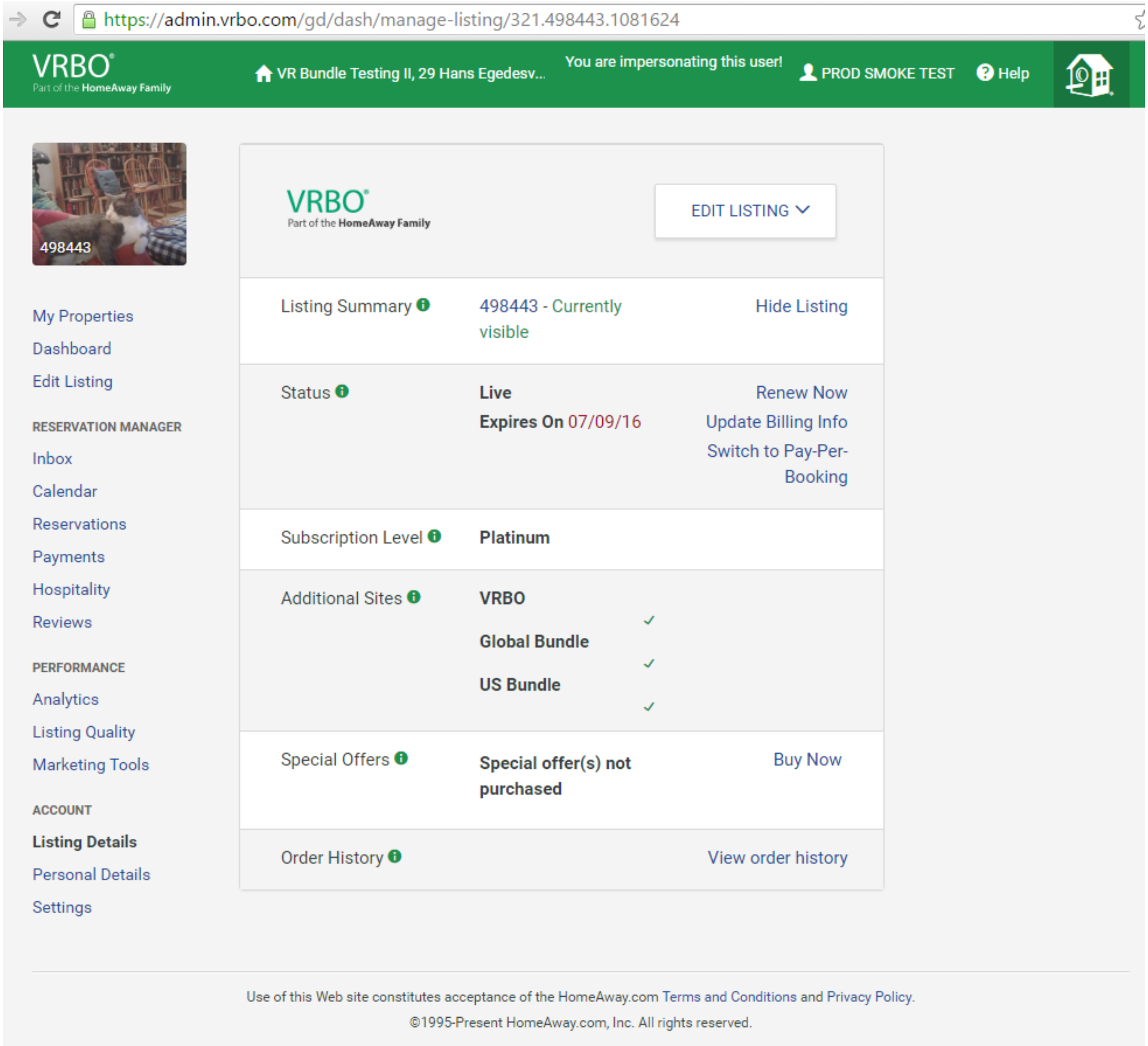

https://admin.vrbo.com/gd/dash/321.558812.1106129
VRBO
Part of the HomeAway Family
You are impersonating this user!
Ivan
Help
558812
Dashboard
Edit Listing
RESERVATION MANAGER
Inbox
Calendar
Reservations
Payments
Hospitality
Reviews
PERFORMANCE
Analytics
Listing Quality
Marketing Tools
ACCOUNT
Listing Details
Personal Details
Settings
Learn how the new annual subscription impacts your listing renewal. – Learn more >
Inbox
REDACTED
VRBO.com
Jul 18 - 22, 2016 4 4
You replied with a quote.
The Cosmopolitan, 677 Crescent Drive, Palm Springs, CA (VRBO...
Inquiry
2 days ago
REDACTED
VRBO.com
REDACTED
Jul 14 - 17, 2016 3 12
Nevermind! I figured it out.
The Cosmopolitan, 677 Crescent Drive, Palm Springs, CA (VRBO...
Booked
3 days ago
REDACTED
VRBO.com
REDACTED
Jul 1 - 4, 2016 3 12
The Cosmopolitan, 677 Crescent Drive, Palm Springs, CA (VRBO...
Tentative
5 days ago
REDACTED
VRBO.com
REDACTED
Jul 1 - 5, 2016 4 10
Replied: Hi Chris - Thanks for the email - we don't give discou...
The Cosmopolitan, 677 Crescent Drive, Palm Springs, CA (VRBO...
Inquiry
6 days ago
REDACTED
VRBO.com
REDACTED
Jul 1 - 5, 2016 4 12
Replied: Send me a new inquiry please for 3 days.
The Cosmopolitan, 677 Crescent Drive, Palm Springs, CA (VRBO...
Inquiry
6 days ago
ALL MESSAGES >
July 2016
Su Mo Tu We Th Fr Sa
26 27 28 29 30 1 2
3 4 5 6 7 8 9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30
31 1 2 3 4 5 6
CALENDAR IS UP TO DATE
Last Updated: 06/30/16
Accepted Booking Requests
Up to last 10
9 of 10
Your booked nights:
44
in the last 12 months
Learn more >
Reviews
4.9 based on 14 reviews
Request a review >
Together, we're building a better HomeAway.

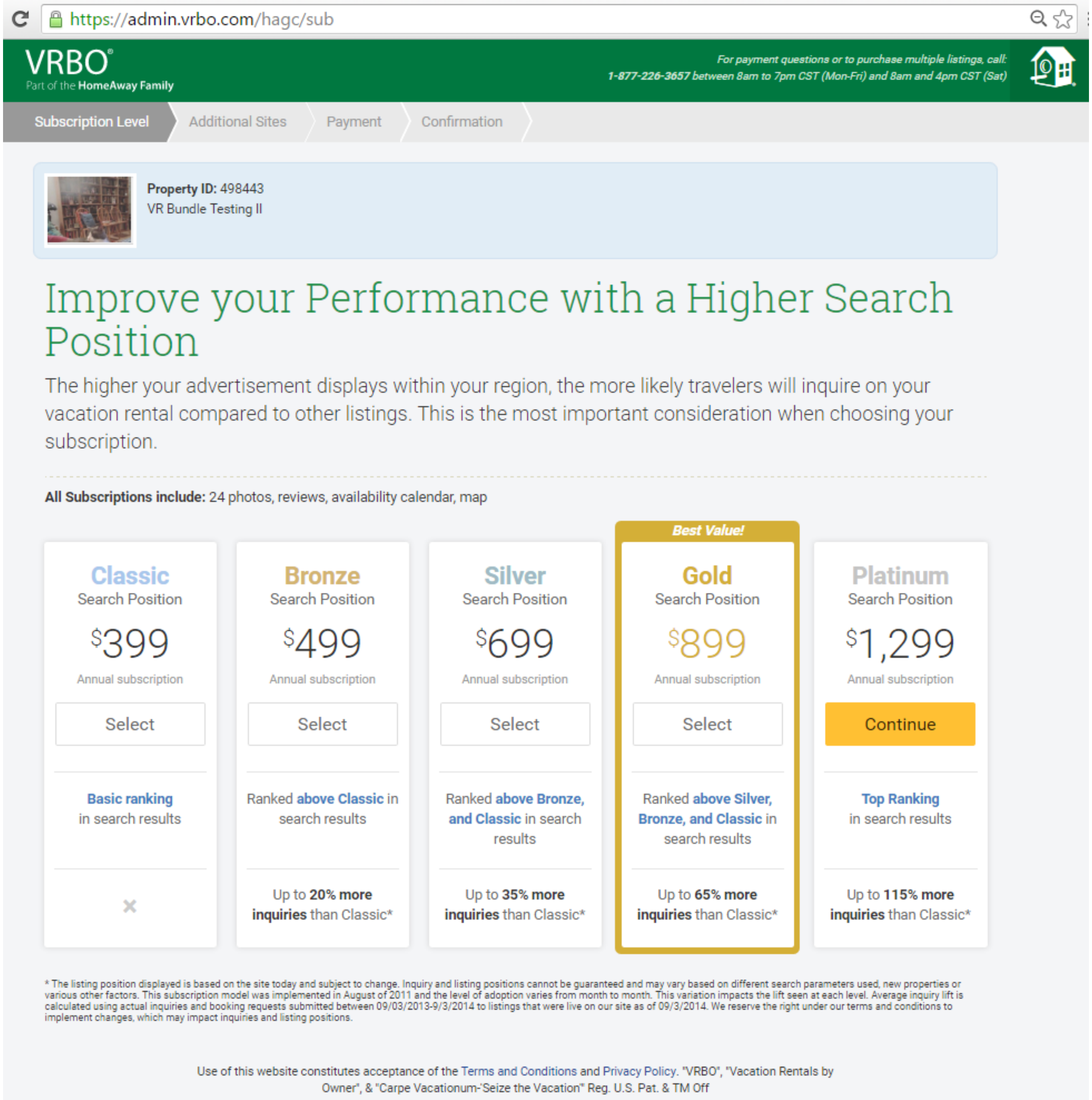
EXHIBIT B

Please note that the screenshots below come from a test account in our production environment. They accurately represent the steps that Mr Arnold went through.

In his owner dashboard, Mr Arnold opted to renew his subscription by clicking on the “Renew Now” link. This link is available in different sections of the dasboard. The example below shows the listing details page.


https://admin.vrbo.com/gd/dash/manage-listing/321.498443.1081624
VRBO
Part of the HomeAway Family
VR Bundle Testing II, 29 Hans Egedesv...
You are impersonating this user!
PROD SMOKE TEST
Help
498443
My Properties
Dashboard
Edit Listing
RESERVATION MANAGER
Inbox
Calendar
Reservations
Payments
Hospitality
Reviews
PERFORMANCE
Analytics
Listing Quality
Marketing Tools
ACCOUNT
Listing Details
Personal Details
Settings
EDIT LISTING
Listing Summary
498443 - Currently visible
Hide Listing
Status
Live
Expires On 07/09/16
Renew Now
Update Billing Info
Switch to Pay-Per-Booking
Subscription Level
Platinum
Additional Sites
VRBO
Global Bundle
US Bundle
Special Offers
Special offer(s) not purchased
Buy Now
Order History
View order history
Use of this Web site constitutes acceptance of the HomeAway.com Terms and Conditions and Privacy Policy.
©1995-Present HomeAway.com, Inc. All rights reserved.

Subscriptions come in different levels. Mr Arnold selected Platinum.



https://admin.vrbo.com/hagc/sub

VRBO®
Part of the HomeAway Family

*For payment questions or to purchase multiple listings, call: **1-877-226-3657** between 8am to 7pm CST (Mon-Fri) and 8am and 4pm CST (Sat)*

Subscription Level | Additional Sites | Payment | Confirmation

Property ID: 498443
VR Bundle Testing II

Improve your Performance with a Higher Search Position

The higher your advertisement displays within your region, the more likely travelers will inquire on your vacation rental compared to other listings. This is the most important consideration when choosing your subscription.

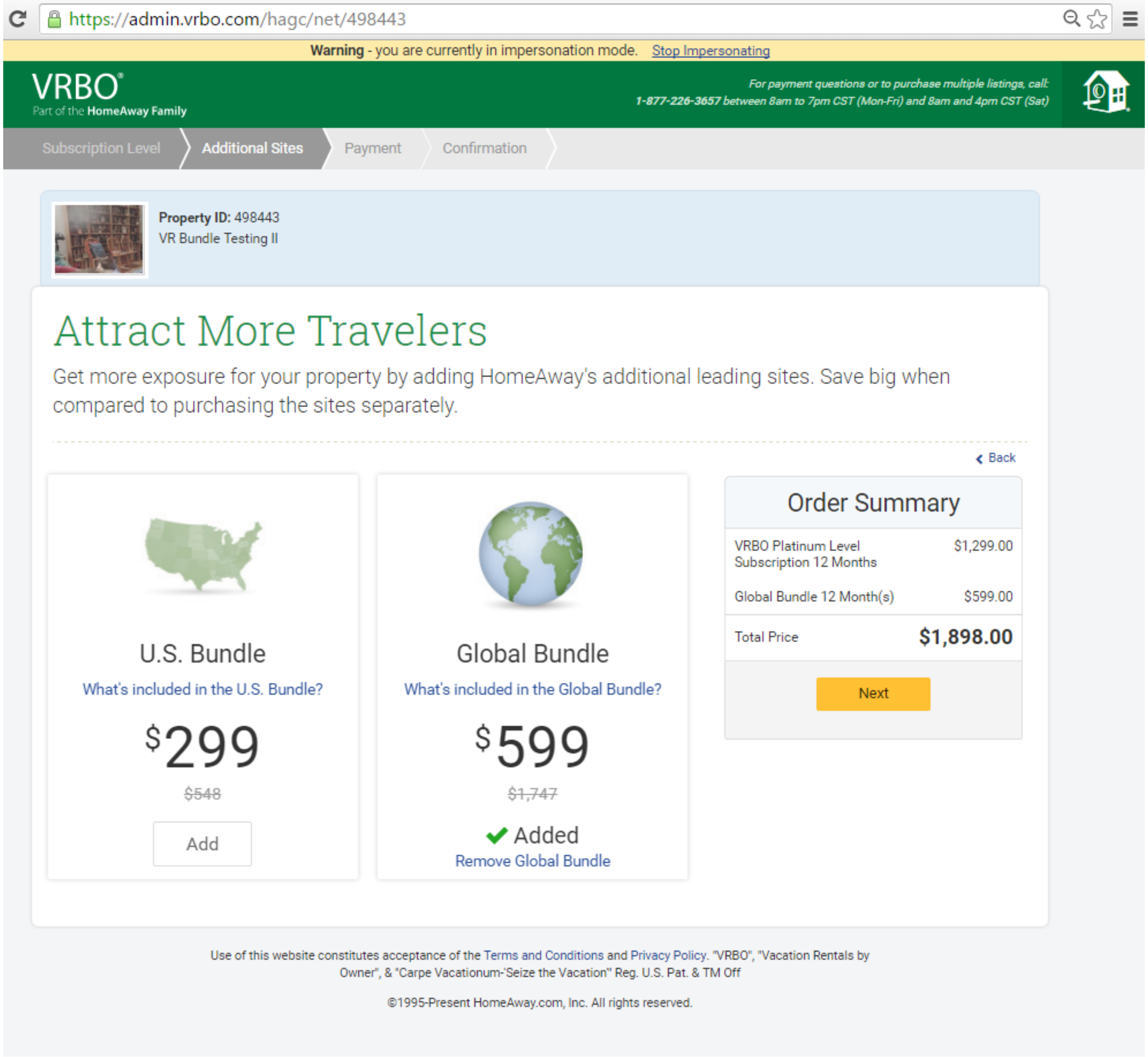
All Subscriptions include: 24 photos, reviews, availability calendar, map

Classic Search Position	Bronze Search Position	Silver Search Position	Gold Search Position (*Best Value!*)	Platinum Search Position
$399 Annual subscription	$499 Annual subscription	$699 Annual subscription	$899 Annual subscription	$1,299 Annual subscription
Select	Select	Select	Select	Continue
Basic ranking in search results	Ranked **above Classic** in search results	Ranked **above Bronze, and Classic** in search results	Ranked **above Silver, Bronze, and Classic** in search results	**Top Ranking** in search results
×	Up to **20% more inquiries** than Classic*	Up to **35% more inquiries** than Classic*	Up to **65% more inquiries** than Classic*	Up to **115% more inquiries** than Classic*

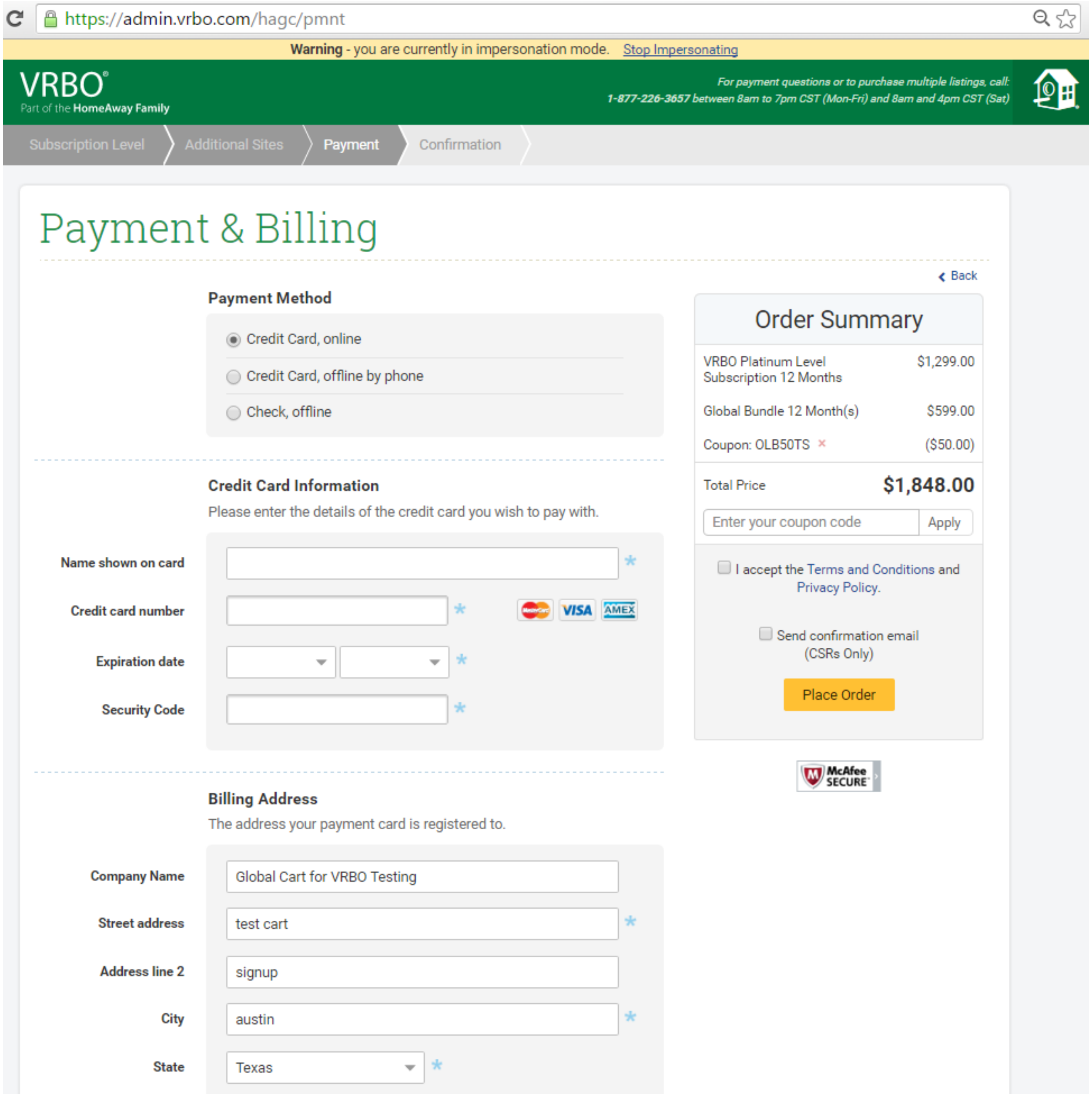
* The listing position displayed is based on the site today and subject to change. Inquiry and listing positions cannot be guaranteed and may vary based on different search parameters used, new properties or various other factors. This subscription model was implemented in August of 2011 and the level of adoption varies from month to month. This variation impacts the lift seen at each level. Average inquiry lift is calculated using actual inquiries and booking requests submitted between 09/03/2013-9/3/2014 to listings that were live on our site as of 09/3/2014. We reserve the right under our terms and conditions to implement changes, which may impact inquiries and listing positions.

Use of this website constitutes acceptance of the Terms and Conditions and Privacy Policy. "VRBO", "Vacation Rentals by Owner", & "Carpe Vacationum-'Seize the Vacation" Reg. U.S. Pat. & TM Off

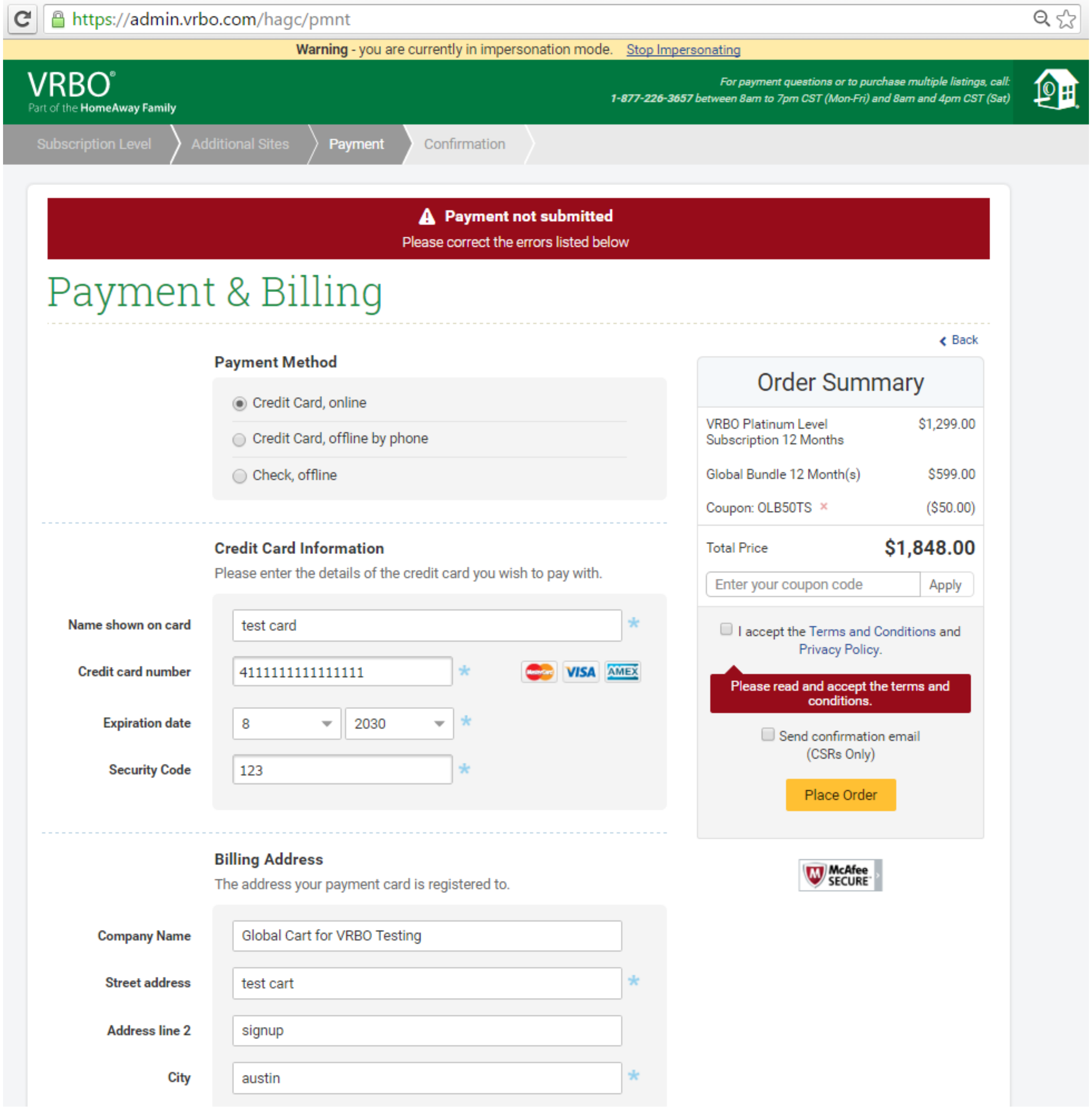
The subscription level selected can be extended to additional sites. Mr Arnold opted for global platinum exposure by adding a Global bundle to his Platinum subscription.


https://admin.vrbo.com/hagc/net/498443
Warning - you are currently in impersonation mode. Stop Impersonating
VRBO
Part of the HomeAway Family
For payment questions or to purchase multiple listings, call:
1-877-226-3657 between 8am to 7pm CST (Mon-Fri) and 8am and 4pm CST (Sat)
Subscription Level
Additional Sites
Payment
Confirmation
Property ID: 498443
VR Bundle Testing II
Attract More Travelers
Get more exposure for your property by adding HomeAway's additional leading sites. Save big when compared to purchasing the sites separately.
Back
U.S. Bundle
What's included in the U.S. Bundle?
$299
$548
Add
Global Bundle
What's included in the Global Bundle?
$599
$1,747
Added
Remove Global Bundle
Order Summary
VRBO Platinum Level Subscription 12 Months $1,299.00
Global Bundle 12 Month(s) $599.00
Total Price $1,898.00
Next
Use of this website constitutes acceptance of the Terms and Conditions and Privacy Policy. "VRBO", "Vacation Rentals by Owner", & "Carpe Vacationum-'Seize the Vacation" Reg. U.S. Pat. & TM Off
©1995-Present HomeAway.com, Inc. All rights reserved.

On the Payment and Billing page, he would have seen the order summary and the Ts&Cs checkbox.


https://admin.vrbo.com/hagc/pmnt
Warning - you are currently in impersonation mode. Stop Impersonating
VRBO
Part of the HomeAway Family
For payment questions or to purchase multiple listings, call:
1-877-226-3657 between 8am to 7pm CST (Mon-Fri) and 8am and 4pm CST (Sat)
Subscription Level
Additional Sites
Payment
Confirmation
Payment & Billing
Back
Payment Method
Credit Card, online
Credit Card, offline by phone
Check, offline
Credit Card Information
Please enter the details of the credit card you wish to pay with.
Name shown on card
Credit card number
VISA
AMEX
Expiration date
Security Code
Billing Address
The address your payment card is registered to.
Company Name
Global Cart for VRBO Testing
Street address
test cart
Address line 2
signup
City
austin
State
Texas
Order Summary
VRBO Platinum Level Subscription 12 Months
$1,299.00
Global Bundle 12 Month(s)
$599.00
Coupon: OLB50TS
($50.00)
Total Price
$1,848.00
Enter your coupon code
Apply
I accept the Terms and Conditions and Privacy Policy.
Send confirmation email (CSRs Only)
Place Order
McAfee SECURE

He would have seen an error message if he had tried to place the order without checking the Ts&Cs checkbox.



https://admin.vrbo.com/hagc/pmnt

Warning - you are currently in impersonation mode. Stop Impersonating

VRBO®
Part of the HomeAway Family

For payment questions or to purchase multiple listings, call:
1-877-226-3657 between 8am to 7pm CST (Mon-Fri) and 8am and 4pm CST (Sat)

Subscription Level | Additional Sites | Payment | Confirmation

Payment not submitted
Please correct the errors listed below

Payment & Billing

‹ Back

Payment Method

- Credit Card, online
- Credit Card, offline by phone
- Check, offline

Credit Card Information
Please enter the details of the credit card you wish to pay with.

Name shown on card: test card *
Credit card number: 4111111111111111 * VISA AMEX
Expiration date: 8 | 2030 *
Security Code: 123 *

Billing Address
The address your payment card is registered to.

Company Name: Global Cart for VRBO Testing
Street address: test cart *
Address line 2: signup
City: austin *

Order Summary

VRBO Platinum Level Subscription 12 Months	$1,299.00
Global Bundle 12 Month(s)	$599.00
Coupon: OLB50TS ×	($50.00)
Total Price	$1,848.00

Enter your coupon code | Apply

I accept the Terms and Conditions and Privacy Policy.

Please read and accept the terms and conditions.

Send confirmation email (CSRs Only)

Place Order

McAfee SECURE

To place this order, he would have had to accept the Ts&Cs

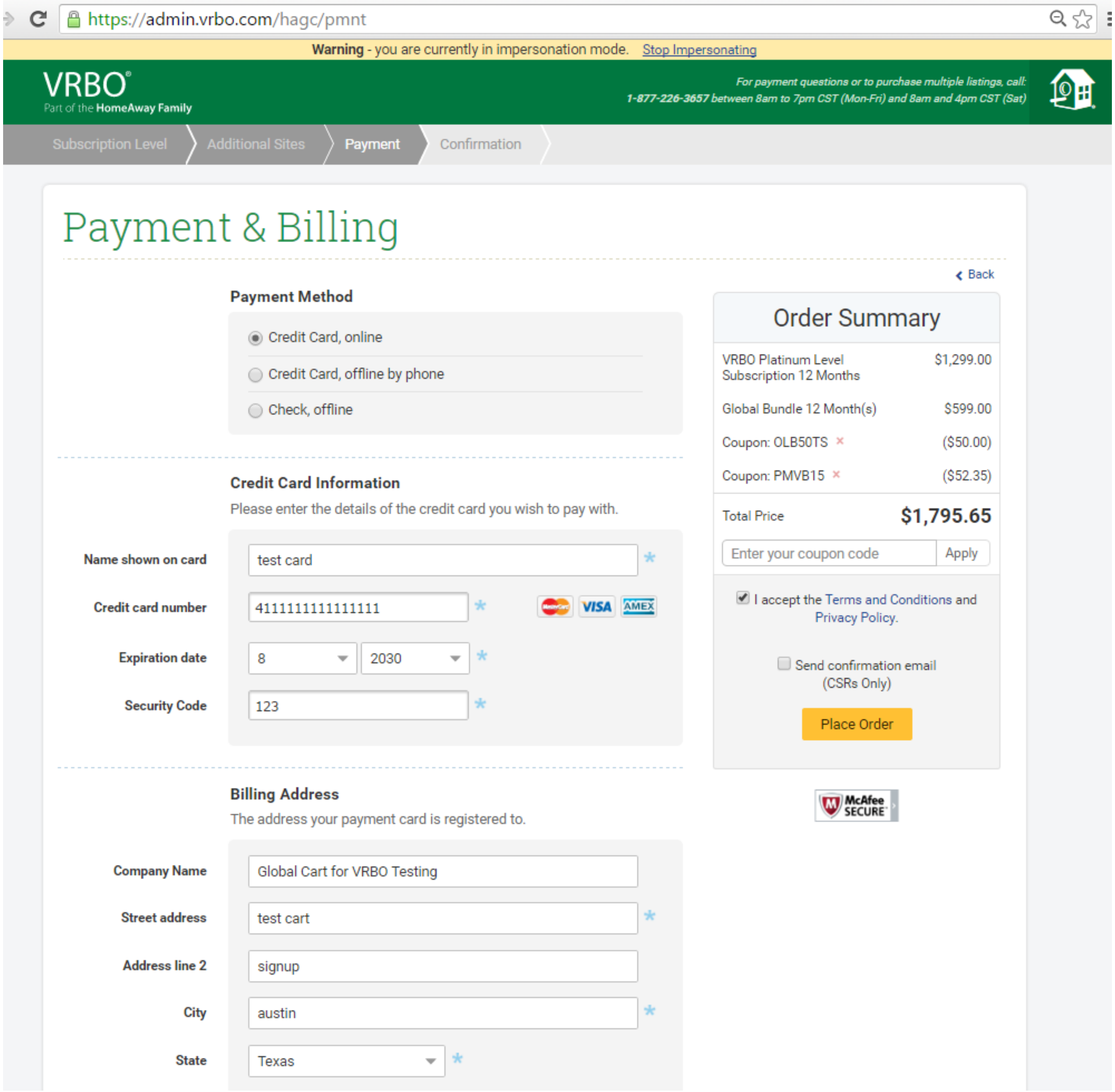

https://admin.vrbo.com/hagc/pmnt
Warning - you are currently in impersonation mode. Stop Impersonating
VRBO
Part of the HomeAway Family
For payment questions or to purchase multiple listings, call:
1-877-226-3657 between 8am to 7pm CST (Mon-Fri) and 8am and 4pm CST (Sat)
Subscription Level
Additional Sites
Payment
Confirmation
Payment & Billing
Back
Payment Method
Credit Card, online
Credit Card, offline by phone
Check, offline
Credit Card Information
Please enter the details of the credit card you wish to pay with.
Name shown on card
test card
Credit card number
4111111111111111
VISA
AMEX
Expiration date
8
2030
Security Code
123
Billing Address
The address your payment card is registered to.
Company Name
Global Cart for VRBO Testing
Street address
test cart
Address line 2
signup
City
austin
State
Texas
Order Summary
VRBO Platinum Level Subscription 12 Months
$1,299.00
Global Bundle 12 Month(s)
$599.00
Coupon: OLB50TS
($50.00)
Coupon: PMVB15
($52.35)
Total Price
$1,795.65
Enter your coupon code
Apply
I accept the Terms and Conditions and Privacy Policy.
Send confirmation email (CSRs Only)
Place Order
McAfee SECURE

EXHIBIT 2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Ivan Arnold, on behalf of himself and all others similarly situated,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 1:16-cv-00374-LY
	§	
HomeAway, Inc. and **Does 1–10**,	§	
	§	
Defendants.	§	

DECLARATION OF COURTNEY DICKEY

1. My name is Courtney Dickey. I am a Senior Director of Legal for the Americas at HomeAway.com, Inc. ("HomeAway"). I have held this position since April 2015 until the present. Before this, I worked at HomeAway as an in-house lawyer with various other job titles starting in May 2009. As Senior Director of Legal, I am familiar with the Terms and Conditions ("T&Cs") that customers agree to when purchasing services offered by HomeAway through its websites. I am also familiar with the different versions of HomeAway's T&Cs and when each updated version of HomeAway's T&Cs went into effect on HomeAway's websites in the domestic United States, including HomeAway.com, VRBO.com (Vacation Rental By Owner) and VacationRentals.com.

2. To list vacation properties for rent on HomeAway's family of websites, property owners and managers (referred to as "members") may purchase either a subscription or register for a pay-per-booking ("PPB") option. Before purchasing a subscription or registering for a PPB option, members must first agree to HomeAway's T&Cs. Specifically, members must check a box next to the phrase stating "I accept the

Terms and Conditions and Privacy Policy." The T&Cs are available for the member to read via a hyperlink in this phrase next to the check-box. Members cannot place orders with HomeAway before agreeing to the T&Cs. Regardless of whether members purchase a subscription or register for a PPB option, members must click "I accept . . ." and assent to HomeAway's T&Cs.

3. HomeAway's T&Cs apply to each and every one of its websites in the domestic United States, including HomeAway.com, VRBO.com, and VacationRentals.com. HomeAway periodically updates its T&Cs. HomeAway issued updated T&Cs through its websites on September 15, 2015; February 9, 2016; April 28, 2016; June 28, 2016; and most recently on July 1, 2016. These T&Cs are the versions for which a member reviews and clicks "I accept" before purchase. Beginning with the February 9, 2016, T&Cs, HomeAway's T&Cs include an arbitration agreement by which members agreed to arbitrate **"[a]ny and all Claims** . . . includ[ing] any Claims that arose before you accepted these Terms . . . ." The April 28, 2016, and June 28, 2016, T&Cs also contain the same arbitration agreement.

4. I am familiar with the dates on which HomeAway member Ivan Arnold renewed his VRBO properties. On May 12, 2016, when he renewed his subscription for property no. 467294 and checked the box "I accept," the April 28, 2016, T&Cs were in effect and provided on the website. Attached hereto as **Exhibit A** is a true and correct copy of the April 28, 2016, T&Cs. The April 28, 2016, T&Cs state in part:

> **19. Disputes; Arbitration . . . Any and all Claims will be resolved by binding arbitration, rather than in court**, except you may assert Claims on an individual basis in small claims court if they qualify. This includes any Claims you assert against

> us, our subsidiaries, users or any companies offering products or services through us (which are beneficiaries of this arbitration agreement). This also includes any Claims that arose before you accepted these Terms, regardless of whether prior versions of the Terms required arbitration.

5. The arbitration clause in the April 28, 2016, T&Cs also expressly incorporates the American Arbitration Association (AAA) rules, including the AAA Consumer Arbitration Rules. Paragraph 19 of the April 28, 2016, T&Cs states that "[a]rbitrations will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA Consumer Rules." Attached hereto as **Exhibit B** is a true and correct copy of the referenced AAA Consumer Arbitration Rules; these Rules may also be found on the AAA's website at the following address: https://www.adr.org/aaa/ShowProperty?nodeId=/UCM/ADRSTAGE2021425&revision=latestreleased.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 8, 2016

Courtney Dickey

Courtney Dickey

EXHIBIT A

Terms and Conditions

Last updated: April 28, 2016

By using or accessing HomeAway.com, VRBO.com, VacationRentals.com, a subdomain of any such websites, any mobile application for such websites or any other website operated by us on which these Terms and Conditions are posted via a link or otherwise (each referred to herein as a "**Site**"), you acknowledge and agree that you are subject to the following terms and conditions, as well as our **Privacy Policy**, which also governs your use of the Site, and is incorporated by reference (These Terms and Conditions with the Privacy Policy shall be referred to as the "**Terms**"). Please read these Terms carefully, as they contain important information about limitations of liability and resolution of disputes through arbitration rather than court.

A user's reservation or use of a HomeAway site is bound by the terms and conditions on the HomeAway site where the reservation is finalized (and not necessarily the HomeAway site on which the property was originally listed). If there are any conflicts between the terms and conditions of the HomeAway site you found the property on and the terms and conditions of the HomeAway site you finalize a booking on, the terms and conditions of the HomeAway site where the reservation is finalized will govern. If you do not fully agree to these Terms and any other terms and conditions posted or linked to any Site, you are not authorized to access or otherwise use the Site. Under these Terms, "**use**" or "**access**" of the Site specifically includes any direct or indirect access or use of the Site or any cached version of the Site and any direct or indirect access or use of any information or content on the Site, regardless of how obtained and the term "**Site**" includes, without limitation, any cached version thereof.

Each Site is operated by HomeAway.com, Inc. (a subsidiary of Expedia, Inc.). Unless otherwise specified, the entity controlling the Site you are accessing is referred to herein as "**HomeAway**," "**we**," "**us**" or "**our**". The term **"you"** refers to the user visiting the Site, listing a property, and/or requesting a reservation on this Site, or our customer service agents. You should read through all the Terms carefully. The Terms constitute a legally binding agreement between you and HomeAway. You are not authorized to use this Site unless you are at least 18 years of age and able to enter into legally binding contracts. We do not knowingly collect the information of anyone under the age of 18. If you arrived on the Site after having been re-directed or otherwise clicking on another website, you agree that these Terms shall govern your use of this Site.

1. The Site is a Venue and We are Not a Party to any Rental Agreement or other Transaction Between Users of the Site.

We urge all users to be responsible about their use of this Site and any transaction entered into as a result of either listing a property or renting a property. We do not own or manage, nor can we contract for, any vacation rental property listed on a Site. The Site provides an on-line marketplace to allow homeowners and property managers who advertise on the Site (each, a "**member**") to offer for rent in a variety of pricing formats, a specific vacation or short term rental property to potential renters or renters (each, a "**traveler**" and, collectively with a member, the "**users**"). "Members" may also include property owners or managers who originally advertised their properties on another website and their listings have been redistributed on the Site. We also may offer online booking or other tools or services to allow users to communicate with each other and enter into rental agreements or other transactions.

We are not a party to any rental or other agreement between users. This is true even if the Site allows you to book a rental or provides other ancillary products or services, as the Site may facilitate booking a rental or other tools, services or products, but we are not a party to any rental or other agreement between users. As a result, any part of an actual or potential transaction between a traveler and a member, including the quality, condition, safety or legality of the properties advertised, the truth or accuracy of the listings (including the content thereof or any review relating to any traveler or property), the ability of members to rent a vacation property or the ability of travelers to contract for properties are solely the responsibility of each user. You acknowledge and agree that you may be required to enter into one or more separate agreements, waivers or terms and conditions before making a booking or purchasing a product or service and HomeAway or one of its affiliates may place additional restrictions on your booking, product or service.

Users agree that they are responsible for, and agree to abide by, all laws, rules and regulations applicable to their use of the Site, their use of any tool, service or product offered on the Site and any transaction they enter into on the Site or in connection with their use of the Site.
Members further agree that they are responsible for and agree to abide by all laws, rules, ordinances, or regulations applicable to the listing of their rental property and the conduct of their rental business, including but not limited to any and all laws, rules, ordinances, regulations or other requirements relating to taxes, credit cards, data and privacy, permits or license requirements, zoning ordinances, safety compliance and compliance with all anti-discrimination and fair housing laws, as applicable. Please be aware that, even though we are not a party to any rental transaction and assume no liability for legal or regulatory compliance pertaining to rental properties listed on the Site, there may be circumstances where we are nevertheless legally obligated (as we may determine in our sole discretion) to provide information relating to your listing in order to comply with requests from governmental bodies in relation to investigations, litigation or administrative proceedings, and we may choose to comply with such obligations in our sole discretion.

Members who accept credit card, banking or other payment information from travelers agree to properly handle and safeguard all such information in accordance with applicable legal and regulatory requirements and best practices.

Although most travel is completed without a serious incident, travel to some destinations may involve more risk than others. We urge travelers to research the location they wish to visit and to review travel prohibitions, warnings, announcements and advisories issued by the United States Government before booking. Information may be found at www.state.gov, www.tsa.gov, www.dot.gov, www.faa.gov, www.cdc.gov, www.treas.gov/ofac and www.customs.gov.

While we do take certain measures with a goal to assist users to avoid potentially fraudulent or other illegal activity of which we become aware, we assume no liability or obligation to take any such measures or actions. When we provide warnings or messages to users about any such activity, we do not warrant that such messages are accurate or that such messages will reach any or all users they should have reached in a timely manner or at all or that such messages or measures will prevent any harm or otherwise have any impact.

2. Limited License to Use the Site.

Users are granted a limited, revocable non-exclusive license to access the Site and the content and services provided on the Site solely for the purpose of advertising a property, searching for a property, purchasing or researching (for the purpose of inquiring about purchasing) any of the products or services offered on any Site, participating in an interactive area hosted on the Site or for any other purpose clearly stated on a Site, all in accordance with the Terms. Any use of the Site that is not for one of these purposes or otherwise in accordance with the Terms or as otherwise authorized by us in writing is expressly prohibited.

3. Unauthorized Uses of the Site.

The license to use the Site only extends to the uses expressly described herein. The license to use the Site granted to users in these Terms does not include any right of collection, aggregation, copying, scraping, duplication, display or any derivative use of the Site nor any right of use of data mining, robots, spiders or similar data gathering and extraction tools without our prior written permission; provided, however, that a limited exception from the foregoing exclusion is provided to general purpose internet search engines that use tools to gather information for the sole purpose of displaying hyperlinks to the Site, provided they each do so from a stable IP address or range of IP addresses using an easily identifiable agent and comply with our robots.txt file. “General purpose internet search engines” do not include a website or search engine or other service that provides classified listings or property rental advertisements, or any subset of the same or which is in the business of providing vacation property rental services or other services that compete with us.

Unauthorized uses of the Site also include, without limitation, those listed below. You agree not to do any of the following, unless otherwise previously and specifically agreed to by us:

- Any commercial use of the Site or any content on the Site, other than by members in good standing, or by members under a valid license to software offered on the Site (a "**valid license**");
- Any use of the Site or the tools and services on the Site for the purpose of booking or soliciting a rental of a property other than a property listed under a valid subscription or pay-per-booking product;
- Copy, reproduce, upload, post, display, republish, distribute or transmit any part of the content in any form whatsoever;
- Reproduce any portion of the Site on your website or otherwise, using any device including, but not limited to, use of a frame or border environment around the Site, or other framing technique to enclose any portion or aspect of the Site, or mirror or replicate any portion of the Site;
- Deep-link to any portion of the Site without our express written permission;
- Modify, translate into any language or computer language or create derivative works from, any content or any part of the Site;
- Reverse engineer any part of the Site;
- Sell, offer for sale, transfer or license any portion of the Site in any form to any third parties;
- Use the Site and its inquiry or booking functionality other than to advertise and/or research vacation rentals, to make legitimate inquiries to our members or any other use expressly authorized on the Site;
- Use the Site to post or transmit information that is in any way false, fraudulent, or misleading, including making any reservation or inquiry under false pretenses, or taking any action that may be considered phishing or that would give rise to criminal or civil liability;
- Post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, indecent, inflammatory, sexually explicit, pornographic or profane material;
- Violate, plagiarize or infringe the rights of us or third parties including, without limitation, copyright, trademark, patent, trade

secrets, rights of publicity or privacy or any other intellectual or proprietary rights; or

- Use or access the Site in any way that, in our sole discretion, adversely affects, or could adversely affect, the performance or function of the Site or any other system used by us or the Site.

If you are aware of, or experience, any content, activity or communication through or in connection with the Site that appears to be in violation of the above restrictions, or in violation of any other provision of these Terms, we ask that you please inform us by contacting us as set forth under "Contact Us," below.

4. Proprietary Rights and Downloading of Information from the Site.

The Site and all content and information on the Site are protected by copyright as a collective work and/or compilation, under applicable U.S. and international copyright laws and conventions and database rights. You agree to abide by any and all copyright notices, information or restrictions contained in or relating to any content on the Site. Copying, storing or otherwise accessing the Site or any content on the Site other than for your personal, noncommercial use (other than in accordance with a valid listing) is expressly prohibited without prior written permission from us. As part of the rental inquiry or reservation process, for your own personal, noncommercial use and not for further distribution, you may download, display and/or print one copy of any portion of the Site. You may not modify the same, and you must reproduce our copyright notice in the form displayed on the relevant portion(s) of the Site that you desire to download, display or print.

5. Your E-mail Address and Data; Our Privacy Policy; Data Transmittal.

When you provide your e-mail address, name or other information to us in connection with your use or access to the Site, any service or tool provided on the Site or otherwise, you agree to allow the Site and its affiliated websites to add your e-mail address, name or other information provided to our database of users. You may receive one or more promotional e-mails from either the Site or a website of one of HomeAway's affiliates. You are welcome to opt not to receive such promotional e-mails from the Site or such affiliates' websites at any time. Please review our Privacy Policy for more information regarding our email and other data collection practices and safeguards, and how to opt not to receive such emails. Your use of the Site signifies your acknowledgment of, and agreement with, our Privacy Policy. We adhere to strong principles of privacy. You agree that we may access and use your user-contributed content in accordance with these Terms or our Privacy Policy and we agree that we will only disclose your user-contributed content in accordance with these Terms and our Privacy Policy.

6. Identity Verification.

User verification on the Internet is difficult and we cannot, and do not assume any responsibility for, the confirmation of each user's purported identity. We encourage you to communicate directly with a traveler or member through the tools available on the Site, though even this does not assure you of the identity of the person with which you are communicating. We further encourage you to take other reasonable measures to assure yourself of the other person's identity and, for travelers, of the property and relevant details of your booking or proposed booking.

You agree to (i) keep your password and online ID for both your account with us and your email account secure and strictly confidential, providing it only to authorized users of your accounts, (ii) instruct each person to whom you give your online ID and password that he or she is not to disclose it to any unauthorized person, (iii) notify us immediately and select a new online ID and password if you believe your password for either your account with us or your email account may have become known to an unauthorized person, and (iv) notify us immediately if you are contacted by anyone requesting your online ID and password. Further, if we suspect any unauthorized access to your account, upon our request, you agree to promptly change your ID and password and take any other related action as we may reasonably request.

We discourage you from giving anyone access to your online ID and password for your account with us and your email account. However, if you do give someone your online ID and online password, or if you fail to adequately safeguard such information, you are responsible for any and all transactions that the person performs while using your account with us and/or your email account, even those transactions that are fraudulent or that you did not intend or want performed.

EACH USER ACKNOWLEDGES AND AGREES THAT: (1) NEITHER HOMEAWAY NOR ANY OF ITS AFFILIATES WILL HAVE ANY LIABILITY TO ANY USER FOR ANY UNAUTHORIZED TRANSACTION MADE USING ANY USER'S ID OR PASSWORD; AND (2) THE UNAUTHORIZED USE OF YOUR ONLINE ID AND PASSWORD FOR YOUR HOMEAWAY ACCOUNT OR YOUR EMAIL ACCOUNT COULD CAUSE YOU TO INCUR LIABILITY TO BOTH HOMEAWAY AND OTHER USERS.

Further, we may, without notice to you, suspend or cancel your listing at any time even without receiving notice from you if we suspect, in our sole discretion, that your account with us or your email account is being used in an unauthorized or fraudulent manner.

7. Limitations on Communications and Use of Other Users' Information; No Spam.

You agree that, with respect to other users' personal information that you obtain directly or indirectly from or through the Site or through any Site-related communication, transaction or software, we have granted to you a license to use such information only for: (i) Site-related communications that are not unsolicited commercial messages, (ii) using services offered through the Site, and (iii) inquiring about or otherwise facilitating a financial transaction between you and the other user related to the purpose of the Site (such as inquiring about or booking a property or charging a personal credit card). Any other purpose will require express permission from the user. You may not use any such information for any unlawful purpose or with any unlawful intent.

In all cases, you must give users an opportunity to remove their information from your address book or database or other records and a chance to review what information you have collected about them. In addition, under no circumstances, except as defined in this provision, may you disclose personal information about another user to any third party without the consent of the other user. You agree that other users may use your personal information to communicate with you in accordance with this provision. Further, you agree that you will protect other users' personal information with the same degree of care that you protect your own confidential information (using at minimum a reasonable standard of care), and you assume all liability for the misuse, loss or unauthorized transfer of such information.

We do not tolerate spam or unsolicited commercial electronic communications of any kind. Therefore, without limiting the foregoing, you are not licensed to add a Site user, even a user who has rented a short-term property from you or to you, to your mailing list (email or physical mail) without the user's express consent. You may not use any tool or service on the Site to send spam or unsolicited commercial electronic communications of any kind or in any other way that would violate these Terms.

8. Responsibility for Property Listings, Reviews and Other User-contributed content; Participation in Interactive Forums.

We have no duty to pre-screen content posted on the Site by members, travelers or other users, whether directly contributed by the user or contributed by us or a third party on behalf of the user (including, without limitation, property listings, reviews of a rental property or a traveler, participation in an interactive community, forum or blog (each an "**Interactive Forum**") or any other content provided by a user to the Site), (collectively, "**user-contributed content**"). We are not responsible for user-contributed content. "**User-contributed content**" also includes information that a user or any other person provided to a third party website or mobile application that is then provided to our Site by a tool we offer or any other exchange of user-contributed content we have authorized.

We reserve the right to decline to permit the posting on the Site of or to remove from the Site any user-contributed content that fails to meet our Content Guidelines, which are incorporated by reference into these Terms, any other guidelines posted on a Site or if it otherwise violates these Terms, each as determined in our discretion.

We may also remove user-contributed content if it is brought to our attention, such as by notice given to us by a user or any third party that any part of these Terms, or any other requirements governing the posting of such content, have been apparently breached in respect of such content, as determined in our discretion. Finally, we reserve the right, but do not assume the obligation, to edit a member's content or user-contributed content in a non-substantive manner solely to cause the content to comply with our Content Guidelines or formatting requirements or to provide services to members to create or improve listings (such as translation services), in accordance with information we have about the property listed. Users remain responsible for reviewing their user-contributed content to ensure it is accurate and not misleading.

At a minimum, user-contributed content must (as determined by us in our discretion):

- not infringe anyone's rights, including but limited to copyright and rights of publicity and privacy, violate the law or otherwise be inappropriate;
- not include personal information of another that can be used to identify or contact any person;
- not include unsolicited promotional content, advertising, political campaigns, contests, raffles or solicitations;
- be directly related to the Site, business service, product or forum where the content is submitted;
- not be obscene, abusive, discriminatory or illegal; or
- not be false or misleading.

All property listings on the Site are the sole responsibility of the member (who may be the owner or a property manager or duly authorized agent of the owner) and we specifically disclaim any and all liability arising from the alleged accuracy of the listings, reviews or any alleged breaches of contract on a user's part. Members are solely responsible for keeping their property information up-to-date on the Site, including, but not limited to, any and all representations about any property, its amenities, location, price and its availability for a specific date or range of dates. We do not represent or warrant that any of the copy, content, traveler or property reviews, guest book entries, property location, suitability, pricing or availability information published on the Site is accurate or up-to-date even in the case where travelers have searched for specific dates or types of properties.

We also may from time to time create new descriptions or otherwise change the location or geographic descriptions we use to identify properties in their listings and search results. Consequently, we may change the location or geographic description associated with any property listing at any time without notice. However, we assume no responsibility to verify property listing content or the accuracy of the location. Members are solely responsible for ensuring the accuracy of location, geographic and other content and location or geographic descriptions and agree to promptly correct (or contact us to correct) any inaccuracy and travelers are solely responsible for verifying the accuracy of such content and descriptions.

All other user-contributed content is the sole responsibility of the user who contributed such content, whether such user contributed the content directly or through a third-party website. Users are solely responsible for their user-contributed content and we specifically disclaim all liability for user-contributed content. The user represents and warrants that the user owns or otherwise controls and has all necessary legal rights to the user's submission and the name or other identifier used in connection with such submission including, but not limited to, all the rights necessary to provide, post, upload, input or submit the user-contributed content. We reserve the right to request a proof of ownership or permission, and to refuse to post user generated content without such proof or if such proof is, in our sole discretion, insufficient.

By submitting or authorizing user-contributed content, you grant to us and our affiliates a perpetual, worldwide, irrevocable, unrestricted, non-exclusive, royalty-free and fully paid-up license to use, copy, license, sublicense (through multiple tiers), adapt, distribute, display, publicly perform, reproduce, transmit, modify, edit and otherwise exploit the copy, the photographs and the likenesses (if any) of any of your user-contributed content, in connection with our business or the business of our affiliates. Notwithstanding the foregoing, following the termination or expiration of a property listing, we will not continue to display the user-contributed content that was displayed in such listing.

You further grant us and our affiliates the ability to register copyright in and protect the user-contributed content, including the images, copy, and content available via any member's listing, from the unauthorized use of the user-contributed content by unaffiliated third parties who may, from time to time, attempt to pirate such information via electronic or other means. This includes, but is not limited to, the right to file suit to seek injunctive relief to protect such material on behalf of and in your name. You further agree to appear and assist us—at our expense and control—with protecting such copyrighted material from unauthorized redistribution.

You agree that we may sublicense all the rights granted to us under these Terms to one or more third parties we may contract with to display all or part of the member's property listing or otherwise provide promotional or other services related to our business. In the event that you retain any rights of attribution, integrity or any other moral rights in any user-contributed content, you hereby waive your right to assert these or to require that any personally identifying information be used in connection with the user-contributed content or any derivative works thereof and affirm that you have no objection to the publication, use, modification, deletion or exploitation of the user-contributed content by us or our affiliates.

9. Service Fee Payable by Travelers.

We charge a service fee payable by travelers who book a property on the Site via the Site checkout. The service fee covers the use of the Site, including such features as 24/7 user support, and is calculated as a variable percentage of the total reservation amount (which may or may not include additional fees, taxes and damage deposits). Depending on the laws of the jurisdiction of the traveler and/or member, VAT may be charged on top of the service fee. The exact service fee (and any VAT, if applicable) charged will be displayed to travelers at the time of booking. The service fee plus applicable VAT will be charged after both the traveler and member accept the reservation. The service fee will only be refunded in the event a member cancels the traveler's reservation. The service fee will not be refunded in the event the traveler cancels the reservation. Any taxes alleged to be owed by any taxing authority on the service fee are the responsibility of HomeAway and members have no responsibility for any such claimed tax liability.

10. Social Media or Third-Party Websites.

If the Site offers a tool or service that allows us to access or use any profile or other information about you that you have provided to Facebook or another third-party website (each a "**Social Media Site**") and you decide to use such tool or service, you acknowledge and agree that:

- The information or content that is a part of your Social Media Site profile, which you have designated as "public" (or a similar designation) (with such information or content and referred to herein as "**Social Media Content**"), may be accessed and used by us in connection with the Site;
- The Social Media Content will be considered user-generated content under these Terms and both you and we shall have the same rights and responsibilities as you that we have with respect to user-generated content under these Terms;
- In the event that the Social Media Content was for any reason misclassified with a public or similar designation or is otherwise inaccurate or to which you do not agree with for any reason, you agree to work with the Social Media Site to make any changes or resolve any disputes and acknowledge that we will not be able to provide you with recourse; and
- The operation of your profile and account with and on the Social Media Site shall continue to be governed by the terms and conditions and privacy policy of such Social Media Site.

11. Translations and Maps.

If any user-contributed content created by members or users is translated for display on the Site or any site of any affiliate of HomeAway, we cannot guarantee the accuracy or quality of such translation and the user is solely responsible for the review, verification and accuracy of such translation. Maps provided on the Site that are provided by Google are subject to the Google Maps terms and conditions located at: http://www.google.com/intl/en_us/help/terms_maps.html.

12. Notification of Infringement; DMCA Policy.

We respect the intellectual property rights of others, and HomeAway does not permit, condone or tolerate the posting of any content on the Site that infringes any person's copyright. HomeAway will terminate, in appropriate circumstances, a member or traveler who is the source of repeat infringement of copyright. Should you become aware of or suspect any copyright infringement on this Site, please refer to our procedures for Notification of Copyright Infringement (or DMCA Policy), which are incorporated by reference into these Terms.

13. Unsolicited Ideas and Feedback.

From time to time, users submit to us ideas or suggestions pertaining to our business, such as ideas for new or improved products or technologies, website or tool enhancements, processes, materials, marketing plans or new product names. We are under no obligation to review or consider them. If you choose to submit any ideas, original creative artwork, suggestions or other works ("**submissions**") in any form to us, then regardless of what you say, write or provide to us in connection with your submissions, the following terms shall apply. The sole purpose of this policy is to avoid potential misunderstandings or disputes in the event that any part of our business, such as our products, websites, technologies or marketing strategies, seems similar to any of your submissions. If you provide any submissions to us, you agree that: (i) your submission and its contents will automatically become the property of HomeAway, without any compensation to you; (ii) HomeAway may use or redistribute any such submission and its contents for any purpose and in any way; (iii) there is no obligation for HomeAway to review any submission; and (iv) there is no obligation to keep any submission confidential.

We welcome your feedback regarding many areas of our business. If you want to send us your feedback, we simply request that you send it to us using the links under "Contact Us." Please provide only specific feedback on our Site and services. Keep in mind that we assume no obligation to keep any feedback you provide confidential and we reserve the right to use or disclose such information in any manner.

14. Software Available on the Site.

The Site is controlled and operated by HomeAway or an affiliate of HomeAway in the United States. Software available on the Site (the "**Software**") is subject to United States export controls. No Software available on the Site or software available on any other site operated by HomeAway or an affiliate of HomeAway in the United States may be downloaded or otherwise exported or re-exported (i) into (or to a resident of) Cuba, Iraq, Libya, North Korea, Iran, Syria or any other country to which the United States has embargoed goods, or (ii) anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders. By using the Site, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

All Software is the copyrighted work of HomeAway, an affiliate of HomeAway or an identified third party. Your use of such Software is governed by these Terms and the terms of any additional license agreement that accompanies or is included with such Software. If the Software is not accompanied by an additional license agreement, we hereby grant you a limited, personal and nontransferable license to use the Software for viewing and using this Site in accordance with these Terms and for no other purpose.

THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE LICENSE AGREEMENT ACCOMPANYING SUCH SOFTWARE. COPYING OR REPRODUCING ANY SOFTWARE AVAILABLE ON THIS SITE IS EXPRESSLY PROHIBITED, EXCEPT AS SPECIFICALLY PROVIDED FOR IN A LICENSE AGREEMENT ACCOMPANYING SUCH SOFTWARE.

15. Links to Third-Party Sites.

This Site may contain links and pointers to other Internet sites, resources and sponsors of the Site. Links to and from the Site to other third-party sites, maintained by third parties, do not constitute an endorsement by us of any third parties, the third-party sites or the contents thereof. We may also provide tools to allow interaction between the Site and a third-party site, such as a Social Media Site. We are not responsible in any way for such third-party sites or resources and your use of such sites and resources will not be governed by these Terms.

16. Limitation of Liability.

IN NO EVENT WILL HOMEAWAY, OR ITS PARENT COMPANY, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, CONSULTANTS, AGENTS AND/OR EMPLOYEES (COLLECTIVELY, THE "HOMEAWAY GROUP"), OR ANY THIRD-PARTY PROVIDER OF A SERVICE OR TOOL OFFERED ON ANY SITE OF A MEMBER OF THE HOMEAWAY GROUP (EACH A "THIRD-PARTY PROVIDER"), BE LIABLE FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF, BASED ON, OR RESULTING FROM (A) OUR SITE, (B) THESE TERMS, (C) ANY BREACH OF THESE TERMS BY YOU OR A THIRD PARTY, (D) USE OF THE SITE, TOOLS OR SERVICES WE PROVIDE, OR ANY THIRD PARTY PROVIDER PROVIDES, RELATED TO THE BUSINESS WE OPERATE ON THE SITE, BY YOU OR ANY THIRD PARTY (E) ANY USER-CONTRIBUTED CONTENT, (F) INTERACTION BETWEEN OUR SITE AND ANY THIRD PARTY SITE, INCLUDING WITHOUT LIMITATION A SOCIAL MEDIA SITE, FACILITATED BY A TOOL OR SERVICE ON OUR SITE AND/OR (G) ANY ACTUAL OR ATTEMPTED COMMUNICATION OR TRANSACTION, INCLUDING WITHOUT LIMITATION, ANY PAYMENT TRANSACTION (EVEN IF WE OR ANY THIRD PARTY PROVIDER RECEIVES A FEE IN CONNECTION THEREWITH) BETWEEN USERS, IN EACH CASE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER THE DAMAGES ARISE FROM (1) BREACH OF CONTRACT, (2) BREACH OF WARRANTY, (3) STRICT LIABILITY, (4) TORT, (5) NEGLIGENCE, OR (6) ANY OTHER CAUSE OF ACTION, TO THE MAXIMUM EXTENT SUCH EXCLUSION AND LIMITATIONS ARE NOT PROHIBITED BY APPLICABLE LAW.

IF YOU ARE DISSATISFIED WITH THE SITE, YOU DO NOT

AGREE WITH ANY PART OF THE TERMS, OR HAVE ANY OTHER DISPUTE OR CLAIM WITH OR AGAINST US, ANY THIRD PARTY PROVIDER OR ANY USER OF THE SITE WITH RESPECT TO THESE TERMS OR THE SITE, THEN YOUR SOLE AND EXCLUSIVE REMEDY AGAINST US IS TO DISCONTINUE USING THE SITE. IN ALL EVENTS, OUR LIABILITY, AND THE LIABILITY OF ANY MEMBER OF THE HOMEAWAY GROUP, TO YOU OR ANY THIRD PARTY IN ANY CIRCUMSTANCE ARISING OUT OF OR IN CONNECTION WITH THE SITE IS LIMITED TO THE GREATER OF (A) THE AMOUNT OF FEES YOU PAY TO US IN THE TWELVE MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY OR (B) $100.00 IN THE AGGREGATE FOR ALL CLAIMS.

17. Disclaimers.

THE SITE, INCLUDING ALL CONTENT, SOFTWARE, FUNCTIONS, MATERIALS AND INFORMATION MADE AVAILABLE ON OR ACCESSED THROUGH THE SITE, IS PROVIDED "AS IS." TO THE FULLEST EXTENT PERMISSIBLE BY LAW, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER FOR THE CONTENT ON THE SITE OR THE MATERIALS, INFORMATION AND FUNCTIONS MADE ACCESSIBLE BY THE SOFTWARE USED ON OR ACCESSED THROUGH THE SITE, FOR ANY PRODUCTS OR SERVICES OR HYPERTEXT LINKS TO THIRD PARTIES OR FOR ANY BREACH OF SECURITY ASSOCIATED WITH THE TRANSMISSION OF SENSITIVE INFORMATION THROUGH THE SITE OR ANY LINKED SITE, EVEN IF WE BECOME AWARE OF ANY SUCH BREACHES. FURTHER, WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED ON THE SITE OR ANY MATERIALS OR CONTENT CONTAINED THEREIN WILL BE UNINTERRUPTED OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SITE OR THE SERVER THAT MAKES IT AVAILABLE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU ACKNOWLEDGE AND AGREE THAT ANY TRANSMISSION TO AND FROM THIS SITE IS NOT

CONFIDENTIAL AND YOUR COMMUNICATIONS OR USER-CONTRIBUTED CONTENT MAY BE READ OR INTERCEPTED BY OTHERS. YOU FURTHER ACKNOWLEDGE AND AGREE THAT BY SUBMITTING COMMUNICATIONS OR USER-CONTRIBUTED CONTENT TO US AND BY POSTING INFORMATION ON THE SITE, INCLUDING PROPERTY LISTINGS, NO CONFIDENTIAL, FIDUCIARY, CONTRACTUALLY IMPLIED OR OTHER RELATIONSHIP IS CREATED BETWEEN YOU AND US OTHER THAN PURSUANT TO THESE TERMS.

YOU ACKNOWLEDGE AND AGREE THAT YOU WILL NOT HOLD OR SEEK TO HOLD US OR ANY THIRD PARTY PROVIDER RESPONSIBLE FOR THE CONTENT PROVIDED BY ANY USER, INCLUDING, WITHOUT LIMITATION, ANY TRANSLATION THEREOF, AND YOU FURTHER ACKNOWLEDGE AND AGREE THAT WE ARE NOT A PARTY TO ANY RENTAL TRANSACTION OR OTHER TRANSACTION BETWEEN USERS OF THE SITE. WE HAVE NO CONTROL OVER AND DO NOT GUARANTEE (OTHER THAN PURSUANT TO ANY GUARANTEE THAT MAY BE OFFERED ON THE SITE) THE SAFETY OF ANY TRANSACTION, RENTAL PROPERTY OR THE TRUTH OR ACCURACY OF ANY LISTING OR OTHER CONTENT PROVIDED ON THE SITE.

YOU FURTHER ACKNOWLEDGE THAT BY DISPLAYING INFORMATION OR PROPERTY LISTINGS IN PARTICULAR DESTINATIONS, WE DO NOT REPRESENT OR WARRANT THAT TRAVEL TO SUCH DESTINATIONS IS WITHOUT RISK AND ARE NOT LIABLE FOR DAMAGES WITH RESPECT TO TRAVEL TO ANY DESTINATION.

18. Release; Indemnification.

IN THE EVENT THAT YOU HAVE A DISPUTE WITH ONE OR MORE OTHER USERS OF THE SITE (INCLUDING, WITHOUT LIMITATION, ANY DISPUTE BETWEEN USERS REGARDING ANY TRANSACTION OR USER-CONTRIBUTED CONTENT) OR ANY THIRD PARTY PROVIDER OR ANY THIRD PARTY WEBSITE THAT MAY BE LINKED TO OR FROM OR OTHERWISE INTERACT WITH THE SITE, INCLUDING WITHOUT LIMITATION ANY SOCIAL MEDIA SITE, YOU HEREBY AGREE TO RELEASE,

REMISE AND FOREVER DISCHARGE EACH MEMBER OF THE HOMEAWAY GROUP, EACH OF THEIR RESPECTIVE AGENTS, DIRECTORS, OFFICERS, EMPLOYEES, AND ALL OTHER RELATED PERSONS OR ENTITIES FROM ANY AND ALL MANNER OF RIGHTS, CLAIMS, COMPLAINTS, DEMANDS, CAUSES OF ACTION, PROCEEDINGS, LIABILITIES, OBLIGATIONS, LEGAL FEES, COSTS, AND DISBURSEMENTS OF ANY NATURE WHATSOEVER, WHETHER KNOWN OR UNKNOWN, WHICH NOW OR HEREAFTER ARISE FROM, RELATE TO, OR ARE CONNECTED WITH SUCH DISPUTE AND/OR YOUR USE OF THE SITE.
IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH SAYS: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

YOU HEREBY AGREE TO INDEMNIFY, DEFEND AND HOLD EACH MEMBER OF THE HOMEAWAY GROUP (COLLECTIVELY, THE "INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY AND COSTS INCURRED BY THE INDEMNIFIED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF YOUR USE OF THE SITE OR OTHERWISE RELATING TO THE BUSINESS WE CONDUCT ON THE SITE (INCLUDING, WITHOUT LIMITATION, ANY POTENTIAL OR ACTUAL COMMUNICATION, TRANSACTION OR DISPUTE BETWEEN YOU AND ANY OTHER USER OR THIRD PARTY), ANY CONTENT POSTED BY YOU OR ON YOUR BEHALF OR POSTED BY OTHER USERS OF YOUR ACCOUNT TO THE SITE, ANY USE OF ANY TOOL OR SERVICE PROVIDED BY A THIRD PARTY PROVIDER, ANY USE OF A TOOL OR SERVICE OFFERED BY US THAT INTERACTS WITH A THIRD PARTY WEBSITE, INCLUDING WITHTOUT LIMITATION ANY SOCIAL MEDIA SITE OR ANY BREACH BY YOU OF THESE TERMS OR THE REPRESENTATIONS, WARRANTIES AND COVENANTS MADE BY YOU HEREIN, INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES AND COSTS. YOU SHALL COOPERATE AS FULLY AS REASONABLY REQUIRED IN THE DEFENSE OF ANY

CLAIM.

WE RESERVE THE RIGHT, AT OUR OWN EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY YOU AND YOU SHALL NOT IN ANY EVENT SETTLE ANY MATTER WITHOUT OUR WRITTEN CONSENT.

19. Disputes; Arbitration.

HomeAway is committed to customer satisfaction, so if you have a problem or dispute, we will try to resolve your concerns. But if we are unsuccessful, you may pursue claims as explained in this section. You agree to give us an opportunity to resolve any disputes or claims relating in any way to the Site, any dealings with our customer experience agents, any services or products provided, any representations made by us, or our Privacy Policy ("**Claims**") by contacting HomeAway Customer Support or 1-877-228-3145. If we are not able to resolve your Claims within 60 days, you may seek relief through arbitration or in small claims court, as set forth below.

Any and all Claims will be resolved by binding arbitration, rather than in court, except you may assert Claims on an individual basis in small claims court if they qualify. This includes any Claims you assert against us, our subsidiaries, users or any companies offering products or services through us (which are beneficiaries of this arbitration agreement). This also includes any Claims that arose before you accepted these Terms, regardless of whether prior versions of the Terms required arbitration.

There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court (including statutory damages, attorneys' fees and costs), and must follow and enforce these Terms as a court would.

Arbitrations will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA Consumer Rules. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules, except as provided in this section. If your total Claims seek less than $10,000, we will reimburse you for filing fees you pay to the AAA and will pay arbitrator's fees. You may choose to have an arbitration conducted by telephone, based on written submissions, or in person in the state where you live or at another mutually agreed upon location.

To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your Claims to "HomeAway Legal: Arbitration Claim Manager," at Expedia, Inc., 333 108th Ave N.E. Bellevue, WA 98004. If we request arbitration against you, we will give you notice at the email address or street address you have provided. The AAA's rules and filing instructions are available at www.adr.org or by calling 1-800-778-7879.

Any and all proceedings to resolve Claims will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a Claim proceeds in court rather than in arbitration **we each waive any right to a jury trial**. The Federal Arbitration Act and federal arbitration law apply to these Terms. An arbitration decision may be confirmed by any court with competent jurisdiction.

20. Additional Terms and Conditions Applicable to Online Booking.

In addition to being bound by the other terms set forth herein, users and members who use ReservationManager™ or any other tool provided by us or a third-party provider on the Site enabling users to book and/or pay for the rental of properties online on one or more of the Sites (collectively, the "**Reservation Services**") are also bound by the following terms, which are in addition to any other terms applicable in connection with using the Site. In addition, if such Reservation Services include payment or other services provided by a third-party provider, such services are subject to the additional terms and conditions and privacy policies of such third-party providers.

We provide Reservation Services to manage inquiries, quotes, and rental agreements and to allow for payments to be made relating to the rental. Please review the following terms and the terms and conditions of any third-party provider carefully. If you do not agree to these or such third-party provider's terms, you have no right to obtain information from or otherwise continue using our Reservation Services. Failure to use our Reservation Services in accordance with the following terms of use may subject you to severe civil and criminal penalties and other liability.

By utilizing a rental agreement as part of the Reservation Services or otherwise displaying terms relating to the rental as part of the online booking process (including such terms that we may require), the traveler and member each agree to the terms and conditions set forth in the rental agreement or other such terms displayed in the booking process (including without limitation the cancellation refund policy) effective as of the date that the user indicates acceptance of the booking or rental agreement, as applicable. You hereby acknowledge and agree that (i) you are fully responsible for such terms and conditions, (ii) any rental agreement used, whether a sample provided by the Site or a rental agreement copied and pasted in ReservationManager (or other online booking tool on the Site) by either party, is used solely at their own risk and expense, (iii) nothing contained in the Reservation Services, these Terms or any sample rental agreement is a substitute for the advice of an attorney and (iv) that you have been hereby advised to obtain local legal counsel to prepare, review and revise as necessary any rental agreements to ensure compliance with federal, state and local law and their particular circumstances, and to revise the rental agreement as necessary to accurately represent the property, rules, features, etc.

There are some members, typically property managers, who use software provided by our affiliate, HomeAway Software, Inc., or a third party. Such software ("**Other Reservation Services**") may be governed by terms provided by the third parties or members making such Other Reservation Services available. Users who use such Other Reservation Services are responsible for complying with such terms in addition to our Terms.

21. Responsibility for Property and Traveler Liability.

We do not provide liability insurance protection for owners, property managers or travelers, regardless of whether a user obtains insurance coverage through one of our third-party providers. Users are solely responsible for obtaining insurance coverage sufficient to protect their properties and guests or their trip, as applicable. Members agree that they have or will obtain the appropriate insurance coverage sufficient to cover the rental of the properties they list on the Site before the arrival of their first traveler and will maintain adequate insurance coverage through the departure date of any traveler they have obtained via our Site. Further, members agree to provide us with copies of relevant proof of coverage upon request.

By utilizing and/or purchasing Property Damage Protection provided by HomeAway partner CSA Travel Protection and Insurance Services, you agree to the terms and conditions under the Property Damage Protection plan, acknowledge that you understand that certain policy restrictions apply, and agree that Property Damage Protection may be included in the rental in lieu of or in addition to a security deposit. Full details of the Property Damage Protection coverage are contained in the Description of Coverage https://www.propertydamageprotection.com/pdf/100HADoc.pdf. Members further acknowledge and agree that they will choose the plan level with the appropriate level of coverage needed for each property and that they will offer that same plan level to all users agreeing to rent the property.

By utilizing and/or purchasing Cancellation Protection provided by HomeAway partner CSA Travel Protection and Insurance Services, you agree to the terms and conditions under the plan and acknowledge that certain policy restrictions apply. Full details of the Cancellation Protection coverage are contained in the Description of Coverage http://www.csatravelprotection.com/certpolicy.do?productclass=G-330CSA.

22. GENERAL

To Contact Us for any reason, users can visit help.homeaway.com.

These Terms are governed by the Federal Arbitration Act, federal arbitration law, and for reservations made by U.S. residents, the laws of the state in which your billing address is located, without regard to principles of conflicts of laws. Use of the Site is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including, without limitation, this paragraph. Your agreement to abide by these Terms, the Privacy Policy and any other terms posted on any Site.

Our relationship is that of independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relations is intended or created by these Terms or your use of the Site. Except as explicitly stated otherwise, any notices to us shall be given by postal mail to: HomeAway.com, Inc., Attn: Legal Department
1011 W. Fifth Street, Suite 300, Austin, Texas 78703

When we need to send you notice, it will be sent to the email address you provide to the Site during the registration or booking or inquiry process or as later updated in your account (if applicable). Notice shall be deemed given upon receipt or 24 hours after an email is sent, unless the sending party is notified that the email address is invalid. Alternatively, we may give you notice by certified mail, postage prepaid and return receipt requested, to any physical address provided to us during the registration process or as later updated in your account (if applicable). Notice shall be deemed given three days after the date of mailing to a physical address and one day after mailing to an electronic address.

We may change, suspend or discontinue any aspect of the Site at any time, including the availability of any Site features, database or content. We may also impose limits on certain features or services or restrict your access to parts or the entire Site without notice or liability. This version of the Terms became effective on the date set forth above and this version amends the version effective before such date. We reserve the right, in our sole discretion, to amend these Terms, in whole or in part, at any time. Notification of any amendment will be posted on the Site by the indication of the last amendment date at the top of these Terms and will be effective immediately. When members renew subscriptions, the terms in effect at the time of renewal will govern, provided that such terms may change as described above.

We also reserve the right, in our sole discretion and from time to time, to offer programs, products or services with unique terms and conditions that are separate from and may supersede or supplement in certain respects these Terms. In such cases, your use of the Site with respect to such special program is governed by these Terms together with the terms and conditions of such program, product or service. We reserve the right, but assume no obligation, to agree to different or conflicting terms and conditions with respect to any user. Any such terms and conditions will not be enforceable unless specifically agreed to by us.

Subscription rates and fees (including any commissions) charged for any listing that is not subscription based (such as pay-per-booking) are set at the time of a user or member's purchase of the subscription or renewal or sign up for the non-subscription-based listing, as applicable. Such rates and fees are subject to change without notice or approval. For subscription listings, the rates in effect at the time of the member's next subscription renewal, new listing or a member's upgrade or any other additional or new order of any product or service will govern for such renewal or other order. The fees and commissions applicable to pay-per-booking listings offered on one or more Sites will be displayed under the "List Your Property" tab when such product is generally made available on a Site or shall be otherwise set forth in a communication between us and the member.

The types of products and services (including the features, terms and operation thereof) offered at the time of a member's subscription or sign up for a non-subscription-based listing are subject to the descriptions displayed at the time of use and/or purchase and are subject to change without notice or approval. We further reserve the right to offer additional products, services or features for purchase at any time.

We do not separately file the Terms entered into by each user of the Site. Please make a copy of these Terms for your records by printing and/or saving a downloaded copy of the Terms on your personal computer. We may immediately terminate any user's access to or use of the Site due to such user's breach of these Terms or any other unauthorized use of the Site. However, we do not guarantee that we will take action against all breaches of these Terms. Our failure to take immediate action with respect to a breach by you or others does not waive our right to act with respect to such breach or any other breach.

These Terms constitute the entire agreement between us and you with respect to the matters set forth herein, and supersede any prior agreement between us and you with respect to your use of the Site. Headings in these Terms are for reference only and do not limit the scope or extent of such section. In the event of any conflict between these Terms and any other terms and conditions applicable to a product, tool or service offered on our Site, the Terms herein shall prevail. If any portion of these Terms is found to be invalid or unenforceable by any court of competent jurisdiction, the other provisions of these Terms shall remain in full force and effect. Further, any provision of these Terms held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

We may assign these Terms in our sole discretion. Users must obtain our prior written consent to assign these Terms, which may be granted or withheld by us in our sole discretion.

ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO MEMBERS

In addition to being bound by the terms set forth above, members who advertise on the Site are also bound by the following terms, which are in addition to any other terms agreed to in connection with purchasing or renewing a listing.

23. Member Eligibility; Accuracy of Information; Listing Practice Requirements.

Our services may only be used by members who can form legally binding contracts under applicable law. If you are registering as a business entity, you represent that you have the authority to bind the entity to these Terms. Each member represents and covenants that all information submitted to us and to the Site during such member's registration with the Site shall be true and correct. Each member further agrees to promptly provide notice to the Site by contacting us as provided above under “Contact Us” regarding any updates to any such contact information previously submitted by such member to the Site.

In order to list a property on a Site, members must comply with certain requirements including but not limited to:

- Members with online booking agree to use commercially reasonable efforts to respond to all booking requests from travelers within 24 hours of receipt of a request for booking;
- Members with online booking further agree to take commercially reasonable efforts to cause all traveler payments to be processed within 24 hours of authorization by the traveler for such payment; and
- Members with online booking must accept a material number of booking requests received in the interest of the traveler experience.

24. Additional Member Representations.

Each member represents and covenants that: (i) it owns and/or has all necessary rights and authority to offer for rent and to rent the property listed by such member; (ii) it will not wrongfully withhold a rental deposit in breach of the underlying rental agreement; (iii) it will accurately describe the subject rental property, will not fail to disclose a material defect in, or material information about, a rental property and will upon request, or otherwise from time to time, review the property listing content and location or geographic description to ensure it is accurate and not misleading ; (iv) it will not wrongfully deny access to the listed property; and (v) it will not fail to provide a refund when due in accordance with the applicable cancellation policy or underlying rental agreement. In addition, if HomeAway, through one of its guarantee or warranty programs and in its sole discretion, compensates a traveler for a loss caused by acts or omissions attributable to a member, HomeAway reserves the right to pursue the member for the amount paid or contributed towards the loss.

Upon our request, each member agrees to promptly provide to us such proof of personal identification, proof that the condition, location, or amenities associated with the property are accurately described in the listing, proof of ownership of the property listed on the Site, and/or proof of authority to list the property. If you are a tenant who is listing a home, condominium, or apartment, please refer to your rental contract or lease, or contact your landlord, prior to listing the property to determine whether your lease or contract contains restrictions that would limit your ability to list your room, home, condominium or apartment. Listing your home may be a violation of your lease or contract and could result in legal action against you by your landlord, including possible eviction.

25. Appearance in Search Results.

We cannot guarantee that your listing will appear in any specific order in search results on the Site. Search order will fluctuate based on a variety of factors such as search parameters, subscription level purchased, listing quality, how frequently a calendar is updated, traveler preferences, member response time, reservation history, online booking capability, and other factors that we may deem important to the user experience from time to time ("**Best Match**"). Listing appearance or order in any particular search result may also vary depending on the search criteria used by the particular traveler. We reserve the right to apply various search algorithms or to use methods to optimize Best Match results for particular travelers' experiences and the overall marketplace. Listings placed on a non-subscription basis, such as pay-per-booking, may not always appear in search results. Listings distributed on third-party sites are not guaranteed to display on such third-party site in any particular order or at all. Search results and order may appear different on HomeAway's mobile application than they appear on the Site. To optimize the search experience for both members and travelers and improve the Best Match process, HomeAway retains the right to run occasional tests that will be limited in duration but may alter how we display listings and search results.

26. Content, Layout and Copy.

All content and copy edits submitted by members are subject to review and approval by us in our sole discretion. We reserve the right to refuse to publish any content that we determine in our sole discretion does not meet these Terms or is otherwise unacceptable to us. However, we assume no duty to review content and we shall not have any liability for any loss or damage resulting from the design or positioning of the copy, properties, content and/or photographs or any change made to any content, photograph or copy submitted by any member. All content must meet these Terms and our Content Guidelines. We reserve the right to edit content submitted to the Site in a non-substantive manner solely to ensure that the content complies with our Content Guidelines or formatting requirements. Members are responsible for reviewing and ensuring that any content displayed on the Site appears as the member intended.

27. Photographs.

Photographs should depict the vacation rental as the main subject of the photograph and may not include children or adults if you do not have their legal consent or any information or images that would violate the privacy rights, intellectual property rights (including but not limited to copyright rights) or any other rights of a third party. We reserve the right to not display or to remove any photographs that we determine, in our sole discretion, do not meet these Terms or are otherwise unacceptable to us.

By submitting a photograph to us, the member represents and warrants that (a) it holds all intellectual property rights (including but not limited to all copyright rights), (b) that any people in the photograph have given permission for their likeness to be displayed in an online advertisement on the Site, (c) that the photograph accurately and fairly represents the subject of the photograph and has not been altered in any manner that would mislead a viewer of that photograph, and (d) that it will indemnify and hold harmless the Site and any member of the HomeAway Group from any cause of action arising from any misrepresentation with respect to any and all photographs so submitted or in the event of claims that the use of a photograph violates another party's copyright.

It is the member's responsibility to obtain any and all permissions required to use, post and grant the foregoing rights in all photographic and other material used in its listings. The member warrants that it is the owner of the copyright in such material or is authorized by the owner thereof to grant to us the rights therein contained and agrees to provide any proof of such rights to us that we may request. Each member further agrees that we may reproduce in whole or in part any photographic material supplied by such member in the promotion of either such member's property or the Site.

28. Uses of Our Trademarks or Logos.

There are limited ways in which a member may use our trademarks or logos in connection with a listing without specific prior written authorization. The following are general guidelines. It is usually permissible for you to refer to HomeAway or the name of one of our affiliate websites on which you list your property in a descriptive manner in your listing on the Site or in other permissible communications. For example, you might say "Check out my vacation rental on HomeAway," or "I list properties on HomeAway." However, you may not refer to HomeAway or any of our affiliates in any way that might lead someone to believe that your company, property, listing or site is sponsored by, affiliated with, or endorsed by HomeAway or one of our affiliates. For example, you may not say "HomeAway sponsors my vacation rental," or describe your property as "HomeAway's best vacation rental." You may not use the HomeAway name or one of our affiliates' names on any other website that lists vacation rentals without our prior written authorization.

The HomeAway name and logo and those of the HomeAway Group and our affiliates are trademarks or registered trademarks in the United States and other jurisdictions around the world. We generally do not permit the use of our names and logos, other than as described above or with our prior written authorization. If you want permission to use our name and/or logo in any other manner, including, without limitation, on any website, business card, signage, t-shirt, etc., or if you have other questions, you may visit help.homeaway.com.

29. Hypertext Links.

We reserve the right to refuse hypertext links to, or addresses of, other web sites from members' pages, and to remove links or web addresses without notice at our sole discretion. Further, we reserve the right to charge for hypertext links at any time.

30. Substitution of Properties; Advertising More Than One Property; Property Managers.

Each listing must relate to an individual and uniquely identified property, unless you purchased a listing package that expressly allows for substitution of properties. This means that:

- The property in a listing may not be substituted for another property without our consent. We may approve a request in our discretion if the property manager's contract for the property was terminated and the member provides sufficient proof, as requested by us, and completes any additional forms we may request. The type and term of the listing for any substituted property shall be the same as the type and term of the originally-listed property (i.e., the term will not be extended past the original term). If a member submits changes to an existing listing that, if approved, would substantially alter the listing to make it that of another property, then we have the right to terminate the listing and may choose, in our sole discretion, to retain any fees associated previously existing listing as compensation for the violation of this condition.
- The listing cannot be a mere example of properties in a given area. Only one property can appear on each listing, unless it is a property with multiple rental units and additional listings are purchased. We reserve the right to amend the copy or remove any listing when more than one property is described in such listing, and may choose, in our sole discretion to retain any fees associated such non-conforming listing as compensation for the violation of this condition.

31. Payment Method Requirements; Bank and Credit Card Fees.

We are not a party to any payment transaction between members and travelers, even if we receive a fee in connection with any payment transaction. No member may request any traveler to mail cash, or utilize any instant-cash wire transfer service such as

Western Union or MoneyGram in payment for all or part of a property rental transaction. Any violation of this term or any other unacceptable payment methods that may be posted on the Site may result in the immediate removal of the non-conforming listing from the Site without notice to the member and without refund. From time to time, we may become aware of users attempting to conduct a transaction that would involve an unauthorized payment method or a fraudulent payment method. Ideally, we hope to be able to assist users in avoiding such transactions, but we assume no liability or responsibility to do so or to inform users of any such actual or suspected activity.

Users' bank or credit card companies may impose certain fees or charges, including, but not limited to, foreign transaction fees, related to any rental of a property. It is the user's obligation to review any agreement with its bank or credit card company concerning any such fees.

32. Subscription Payments; Automatic Renewal of Subscription Payments.

Payment for subscription listings must be made to us in U.S. Dollars paid either by major credit or debit card, PayPal, or a check drawn on a U.S. bank. For any subscription paid for by credit card or PayPal, such subscription shall automatically renew at the expiration of the then-current term for an additional term of the same duration (as the previous term) and at the then-current non-promotional subscription rate. If such subscription was purchased by check or another form of payment other than by credit card or PayPal (if such other payment form was permitted), such subscription shall not be automatically renewed. The automatic renewal feature allows your service to remain uninterrupted at the expiration of your then-current term. If you wish to turn off auto-renewal, you must log on to your account and manually turn off auto-renewal in your owner dashboard at least five (5) days prior to expiration of the then-current term. Upon any such turning off of auto-renewal, your subscription will remain active through the expiration of your then-current subscription term; however your subscription will not be automatically renewed upon the expiration of your then-current term. If your subscription does not auto-renew or expires at the end of your then-current subscription term and you desire to renew your subscription, you will be required to pay the then-current non-promotional subscription rate to renew your subscription or to activate a new subscription.

If you do not turn off auto-renewal and you continue to use our subscription service, you re-affirm and authorize us to charge your form of payment at the end of each subscription term for an additional term of the same duration as the initial term and at the then-current, non-promotional subscription rate for the same product or service. If the product or service that you last purchased has changed in any way or is no longer offered, you agree and authorize us to charge your form of payment at the renewal of your subscription term for a product or service that is the most similar, as determined by us, to the product or service that you previously purchased, even if the price of such product or service is not the same as the prior product or service that you purchased. You agree to be responsible for any such charges, and we reserve the right to obtain payment directly from you if necessary. If you wish to change your form of payment to be charged or if your form of payment information otherwise changes, see help.homeaway.com for information on updating the payment information in your owner dashboard, as applicable or to provide the new or different form of payment information.

If a Site enables you to list your property on a basis other than by subscription, you agree to pay us compensation as described to you in the registration process, which compensation may be changed by us from time to time without notice by us displaying the compensation on the Site on which you registered for the listing. The registration process and additional notices you may receive from us may also provide additional terms and conditions for such listings.

33. Subscription Term and Refund Requests.

All subscription listings are sold to run the full term that is chosen by the member. The term starts on the date that the member submits the full or initial (as applicable) payment and expires one year thereafter. For example, for an annual subscription term, if the member submits payment for the subscription on July 1st, the subscription would expire on June 30 of the following year. If you renew your subscription listing, or if your subscription listing automatically renews, your listing will remain online for the new subscription period without refund.

Generally, no refunds are available unless a member qualifies for a refund under any special program we may have in effect. If you believe you qualify for a refund, you may contact customer support by sending your request to the address listed under “Contact Us” above and include your listing number, and your reason for requesting a refund. We will then determine, in our sole discretion, whether any refund is due. If you sell your property and no longer wish for the listing to remain online, please contact us and we can remove the listing; however, no refund will be owed.

34. Additional Terms Applicable to Pay-Per-Booking Listings.

A description of the features and applicable fees that will apply to pay-per-booking listings will be displayed under the “List Your Property” tab of the Site offering such product, when made generally available. Pay-per-booking listings are subject to the additional terms, conditions and requirements set forth during the registration for such listing, including those of our third party providers. Online booking and payments is required for all pay-per-booking listings. Online payments are provided by third-party providers and are subject to the terms and conditions and privacy policies of such providers.

Pay-per-booking listings may be converted to subscription listings at any time; however any bookings already made prior to conversion shall remain subject to applicable pay-per-booking fees. Cancellation policies are required for all pay-per-booking listings, and requirements for such cancellation policies shall be displayed through the “List Your Property” tab of the Site offering the pay-per-booking listing.

35. Distribution of Listings to Third Party Websites.

To enable members to obtain broader distribution of their properties, we may provide your listing information and content, or otherwise provide for the distribution of your listing on a third party website. Additional terms and conditions may apply to such distributions, as we may notify you of via your owner dashboard or email.

36. Termination of Listings; Other Remedies.

If, in our sole discretion, any member submits unsuitable material to our Site or into our database, is not abiding by local rental regulations and is creating a nuisance in its community, misuses the Site or our online system or is in material breach of these Terms, we reserve the right to terminate such member's listing immediately without refund. In addition, if we become aware of or receive a complaint or a series of complaints from any user or other third party regarding a member's listing or rental practices that, in our sole discretion, warrants the immediate removal of such member's listing from the Site (for example, and without limitation, if a member double-books a property for multiple travelers on the same date, or engages in any practice that, in our sole discretion, would be considered deceptive, unfair or improper within the vacation rental industry or in an online marketplace for vacation rentals, if we determine or suspect that the member's payment-related practices or procedures are not secure, legal or otherwise proper, or if we receive a complaint that any listing's content infringes on the rights of a third party), then we may immediately terminate such member's listing(s) or subscription(s) without notice to the member and without refund. We assume no duty to investigate complaints. Finally, if any member is abusive or offensive to any employee or representative of the HomeAway Group, we reserve the right to terminate such member's listing(s) or subscription(s) immediately without refund.

In addition to reserving the right to terminate any listing, HomeAway reserves all rights to respond to any violation of the Terms or misuse of the Site by, including, but not limited to, hiding a listing from the search results, marking a member as "out of office," and removing or changing information that may be false or misleading.

Additionally, you agree to defend and indemnify HomeAway, its affiliated companies, and any of their officers, directors, employees and agents from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature including but not limited to reasonable legal and accounting fees, brought by third parties as a result of:

- your breach of these Terms or the documents referenced herein;
- your violation of any law or the rights of a third party; or

your use of this Site.

EXHIBIT B

CONSUMER

Consumer Arbitration Rules

AMERICAN ARBITRATION ASSOCIATION®

Available online at **adr.org/consumer**

Rules Amended and Effective September 1, 2014
Cost of Arbitration Effective January 1, 2016

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Consumer Arbitration Rules

Introduction

Millions of consumer purchases take place each year. Occasionally, these transactions lead to disagreements between consumers and businesses. These disputes can be resolved by arbitration. Arbitration is usually faster and cheaper than going to court.

The American Arbitration Association® ("AAA®," "the Association") applies the *Consumer Arbitration Rules* ("Rules") to arbitration clauses in agreements between individual consumers and businesses where the business has a standardized, systematic application of arbitration clauses with customers and where the terms and conditions of the purchase of standardized, consumable goods or services are non-negotiable or primarily non-negotiable in most or all of its terms, conditions, features, or choices. The product or service must be for personal or household use. The AAA has the discretion to apply or not to apply the *Consumer Arbitration Rule*, and the parties are able to bring any disputes concerning the application or non-application of the Rules to the attention of the arbitrator. Consumers and businesses are permitted to seek relief in a small claims court for disputes or claims within the scope of the small claims court's jurisdiction. These Rules were drafted and designed to be consistent with the minimum due process principles of the *Consumer Due Process Protocol*.

About the AAA

The administrator's role is to manage the administrative aspects of the arbitration, such as the appointment of the arbitrator, preliminary decisions about where hearings might take place, and handling the fees associated with the arbitration. As administrator, however, the AAA does not decide the merits of a case or make any rulings on issues such as what documents must be shared with each side. Because the AAA's role is only administrative, the AAA cannot overrule or change an arbitrator's decisions or rulings. The administrator will comply with any court orders issued from litigation involving the parties to the dispute.

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The American Arbitration Association, founded in 1926, is a neutral, independent, and private not-for-profit organization. We offer a broad range of conflict management services to businesses, organizations, and individuals. We also provide education, training, and publications focused on methods for settling disputes out of court.

The Arbitrator

Except where the parties to a case reach their own settlement, the arbitrator will make the final, binding decision called the Award on the dispute and render it in writing. The Arbitrator makes all the procedural decisions on a case not made by the Administrator or not decided jointly by the parties. The arbitrator may grant any remedy, relief, or outcome that the parties could have received in court, including awards of attorney's fees and costs, in accordance with the law or laws that apply to the case.

Arbitrators are neutral and independent decision makers who are not employees of the AAA. Once appointed to a case, an arbitrator may not be removed by one party without the other party's consent or unless the Administrator determines an arbitrator should be removed and replaced by another arbitrator chosen by the Administrator in a manner described in these Rules.

The AAA's Consumer Arbitration Rules

The AAA has developed the *Consumer Arbitration Rules* for consumers and businesses that want to have their disagreements resolved through arbitration.

Availability of Mediation through Mediation.org

Mediation in consumer disputes is also available to help parties resolve their disputes. Parties interested in participating in mediation may find a mediator through **www.mediation.org.**

Administrative Fees

The Association charges a fee for its services under these Rules. A fee schedule is included at the end of these Rules in the Costs of Arbitration section.

Arbitrator's Fees

Arbitrators are paid for the time they spend resolving disputes. The business makes deposits as outlined in the fee schedule in the Costs of Arbitration section of these Rules. Unused deposits are refunded at the end of the case.

Notification

A business intending to incorporate these Rules or to refer to the dispute resolution services of the AAA in a consumer alternative dispute resolution ("ADR") plan should, at least 30 days prior to the planned effective date of the program,

- notify the Association of its intention to do so, and
- provide the Association with a copy of the consumer dispute resolution plan.

If a business does not comply with this requirement, the Association reserves the right to withhold its administrative services. For more information, please see R-12 below.

Filing a Case and Initial AAA Administrative Steps

R-1. Applicability (When the AAA Applies These Rules)

(a) The parties shall have made these *Consumer Arbitration Rules* ("Rules") a part of their arbitration agreement whenever they have provided for arbitration by the American Arbitration Association ("AAA"), and

1) have specified that these *Consumer Arbitration Rules* shall apply;

2) have specified that the *Supplementary Procedures for Consumer-Related Disputes* shall apply, which have been amended and renamed the *Consumer Arbitration Rules*;

3) the arbitration agreement is contained within a consumer agreement, as defined below, that does not specify a particular set of rules; or

4) the arbitration agreement is contained within a consumer agreement, as defined below, that specifies a particular set of rules other than the *Consumer Arbitration Rules*.

When parties have provided for the AAA's rules or AAA administration as part of their consumer agreement, they shall be deemed to have agreed that the application of the AAA's rules and AAA administration of the consumer arbitration shall be an essential term of their consumer agreement.

The AAA defines a consumer agreement as an agreement between an individual consumer and a business where the business has a standardized, systematic application of arbitration clauses with customers and where the terms and conditions of the purchase of standardized, consumable goods or services are non-negotiable or primarily non-negotiable in most or all of its terms, conditions, features, or choices. The product or service must be for personal or household use.

Examples of contracts that typically meet the criteria for application of these Rules, if the contract is for personal or household goods or services and has an arbitration provision, include, but are not limited to the following:

- Credit card agreements
- Telecommunications (cell phone, ISP, cable TV) agreements
- Leases (residential, automobile)
- Automobile and manufactured home purchase contracts
- Finance agreements (car loans, mortgages, bank accounts)
- Home inspection contracts
- Pest control services

- Moving and storage contracts
- Warranties (home, automobile, product)
- Legal funding
- Health and fitness club membership agreements
- Travel services
- Insurance policies
- Private school enrollment agreements

Examples of contracts that typically do not meet the criteria for application of these Rules, should the contract contain an arbitration provision, include, but are not limited to the following:

- Home construction and remodeling contracts
- Real estate purchase and sale agreements
- Condominium or homeowner association by-laws
- Business insurance policies (including crop insurance)
- Commercial loan and lease agreements
- Commercial guaranty agreements

(b) When parties agree to arbitrate under these Rules, or when they provide for arbitration by the AAA and an arbitration is initiated under these Rules, they thereby authorize the AAA to administer the arbitration. The authority and duties of the AAA are prescribed in the agreement of the parties and in these Rules and may be carried out through such of the AAA's representatives as it may direct. The AAA may, in its discretion, assign the administration of an arbitration to any of its offices. Arbitrations administered under these Rules shall only be administered by the AAA or by an individual or organization authorized by the AAA to do so.

(c) The consumer and the business may agree to change these Rules. If they agree to change the Rules, they must agree in writing. If the consumer and the business want to change these Rules after the appointment of the arbitrator, any changes may be made only with the approval of the arbitrator.

(d) The AAA administers consumer disputes that meet the due process standards contained in the *Consumer Due Process Protocol* and the *Consumer Arbitration Rules.* The AAA will accept cases after the AAA reviews the parties' arbitration agreement and if the AAA determines the agreement substantially and materially complies with the due process standards of these Rules and the *Consumer Due Process Protocol.* Should the AAA decline to administer an arbitration, either party may choose to submit its dispute to the appropriate court for resolution.

(e) The AAA has the initial authority to apply or not to apply the *Consumer Arbitration Rules*. If either the consumer or the business disagrees with the AAA's decision, the objecting party must submit the objection by the due date for filing an answer to the demand for arbitration. If an objection is filed, the arbitrator shall have the authority to make the final decision on which AAA rules will apply.

(f) If, within 30 days after the AAA's commencement of administration, a party seeks judicial intervention with respect to a pending arbitration and provides the AAA with documentation that judicial intervention has been sought, the AAA will suspend administration for 30 days to permit the party to obtain a stay of arbitration from the court.

(g) Where no disclosed claims or counterclaims exceed $25,000, the dispute shall be resolved by the submission of documents only/desk arbitration (see R-29 and the *Procedures for the Resolution of Disputes through Document Submission* below). Any party, however, may ask for a hearing. The arbitrator also may decide that a hearing is necessary.

R-2. Starting Arbitration under an Arbitration Agreement in a Contract

(a) Arbitration filed under an arbitration agreement naming the AAA shall be started in the following manner:

(1) The party who starts the arbitration (referred to as the "claimant" throughout the arbitration) must contact, in writing, the party that the case is filed against (referred to as the "respondent" throughout the arbitration) that it wishes to arbitrate a dispute. This written contact is referred to as the Demand for Arbitration ("Demand"). The Demand must do the following:

- Briefly explain the dispute
- List the names and addresses of the consumer and the business, and, if known, the names of any representatives of the consumer and the business
- Specify the amount of money in dispute, if applicable
- Identify the requested location for the hearing if an in-person hearing is requested
- State what the claimant wants

(2) The claimant must also send one copy of the Demand to the AAA at the same time the demand is sent to the respondent. When sending a Demand to the AAA, the claimant must also send the following:

- A copy of the arbitration agreement contained in the contract and/or agreement and/or purchase document
- The proper filing fee; the amount of the filing fee can be found in the Costs of Arbitration section at the end of these Rules.

(3) If the arbitration is pursuant to a court order, the claimant must send one copy of the Demand to the AAA at the same time the Demand is sent to the respondent. When sending a demand to the AAA, the claimant must also send the following:

- A copy of the court order
- A copy of the arbitration agreement contained in the contract and/or agreement and/or purchase document
- The proper filing fee

The filing fee must be paid before a matter is considered properly filed. If the court order directs that a specific party is responsible for the filing fee, it is the responsibility of the filing party either to make such payment to the AAA and seek reimbursement as directed in the court order or to make other such arrangements so that the filing fee is submitted to the AAA with the Demand.

The claimant may file by mail. The mailing address of the AAA's Case Filing Services is:

American Arbitration Association
Case Filing Services
1101 Laurel Oak Road, Suite 100
Voorhees, NJ 08043

Or, the claimant may file online using AAA WebFile: **https://www.adr.org**

Or, the claimant may file at any of the AAA's offices.

(b) The AAA will send a written notice letting the consumer and the business know the Demand for Arbitration has been received.

(c) The respondent may submit a written response to the Demand, known as an "answer," which describes how the respondent responds to the claimant's claim. The answer must be sent to the AAA within 14 calendar days after the date the AAA notifies the parties that the Demand for Arbitration was received and all filing requirements were met. The answer must be

- in writing,
- sent to the AAA, and
- sent to the claimant at the same time.

(d) The respondent may also file a counterclaim, which is the respondent filing a Demand against the claimant. If the respondent has a counterclaim, the counterclaim must briefly explain the dispute, specify the amount of money involved, and state what the respondent wants.

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(e) If no answer is filed within 14 calendar days, the AAA will assume that the respondent does not agree with the claim filed by the claimant. The case will move forward after 14 days regardless of whether an answer is filed.

(f) When sending a Demand or an answer, the consumer and the business are encouraged to provide enough details to make the dispute clear to the arbitrator.

R-3. Agreement to Arbitrate When There is No AAA Arbitration Clause

If the consumer and business do not have an arbitration agreement or their arbitration agreement does not name the AAA, the parties may agree to have the AAA arbitrate their dispute. To start the arbitration, the parties must send the AAA a submission agreement, which is an agreement to arbitrate their case with the AAA, signed by the consumer and the business (email communications between all parties to a dispute reflecting an agreement to arbitrate also is acceptable). The submission agreement must

- be in writing (electronic communication is acceptable);
- be signed by both parties;
- briefly explain the dispute;
- list the names and addresses of the consumer and the business;
- specify the amount of money involved;
- specify the requested location for the hearing if an in-person hearing is requested; and
- state the solution sought.

The parties should send one copy of the submission agreement to the AAA. They must also send the proper filing fees. A fee schedule can be found in the Costs of Arbitration section at the end of these Rules.

R-4. AAA Administrative Fees

As a not-for-profit organization, the AAA charges fees to compensate it for the cost of providing administrative services. The fee schedule in effect when the case is filed shall apply for all fees charged during the administration of the case. The AAA may, in the event of the consumer's extreme hardship, defer or reduce the consumer's administrative fees.

AAA fees shall be paid in accordance with the Costs of Arbitration section found at the end of these Rules.

R-5. Neutral Arbitrator's Compensation

(a) Arbitrators serving under these Rules shall be compensated at a rate established by the AAA.

(b) Any arrangement for the compensation of an arbitrator shall be made through the AAA and not directly between the parties and the arbitrator.

(c) Arbitrator compensation shall be paid in accordance with the Costs of Arbitration section found at the end of these Rules.

R-6. Depositing Neutral Arbitrator's Compensation with the AAA

The AAA may require the parties to deposit in advance of any hearings such sums of money as it decides are necessary to cover the expense of the arbitration, including the arbitrator's fee, and shall render an accounting to the parties and return any unused money at the conclusion of the case.

R-7. Expenses

Unless otherwise agreed by the parties or as provided under applicable law, the expenses of witnesses for either side shall be borne by the party producing such witnesses.

All expenses of the arbitrator, including required travel and other expenses, and any AAA expenses, as well as the costs relating to proof and witnesses produced at the direction of the arbitrator, shall be borne in accordance with the Costs of Arbitration section found at the end of these Rules.

R-8. Changes of Claim

Once a Demand has been filed, any new claims or counterclaims, or changes to the claim or counterclaim, must be made in writing and sent to the AAA. The party making the new or different claim or counterclaim shall send a copy to the opposing party. As with the original Demand or counterclaim, a party shall have 14 calendar days from the date the AAA notifies the parties it received the new or different claim or counterclaim to file an answering statement with the AAA.

If an arbitrator has already been appointed, a new or different claim or counterclaim may only be considered if the arbitrator allows it.

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R-9. Small Claims Option for the Parties

If a party's claim is within the jurisdiction of a small claims court, either party may choose to take the claim to that court instead of arbitration as follows:

(a) The parties may take their claims to small claims court without first filing with the AAA.

(b) After a case is filed with the AAA, but before the arbitrator is formally appointed to the case by the AAA, a party can send a written notice to the opposing party and the AAA that it wants the case decided by a small claims court. After receiving this notice, the AAA will administratively close the case.

(c) After the arbitrator is appointed, if a party wants to take the case to small claims court and notifies the opposing party and the AAA, it is up to the arbitrator to determine if the case should be decided in arbitration or if the arbitration case should be closed and the dispute decided in small claims court.

R-10. Administrative Conference with the AAA

At the request of any party or if the AAA should so decide, the AAA may have a telephone conference with the parties and/or their representatives. The conference may address issues such as arbitrator selection, the possibility of a mediated settlement, exchange of information before the hearing, timing of the hearing, the type of hearing that will be held, and other administrative matters.

R-11. Fixing of Locale (the city, county, state, territory and/or country where the arbitration will take place)

If an in-person hearing is to be held and if the parties do not agree to the locale where the hearing is to be held, the AAA initially will determine the locale of the arbitration. If a party does not agree with the AAA's decision, that party can ask the arbitrator, once appointed, to make a final determination. The locale determination will be made after considering the positions of the parties, the circumstances of the parties and the dispute, and the *Consumer Due Process Protocol*.

R-12. Business Notification and Publicly-Accessible Consumer Clause Registry

Beginning September 1, 2014, a business that provides for or intends to provide for these Rules or another set of AAA Rules in a consumer contract (as defined in R-1) should

1. notify the AAA of the existence of such a consumer contract or of its intention to do so at least 30 days before the planned effective date of the contract.
2. provide the AAA a copy of the arbitration agreement.

Upon receiving the arbitration agreement, the AAA will review the agreement for material compliance with due process standards contained in the *Consumer Due Process Protocol* and the *Consumer Arbitration Rules* (see Rule 1(d)). There is a nonrefundable fee to conduct this initial review and maintain a publicly-available clause registry, which is detailed in the Costs of Arbitration section found at the end of these Rules. Any subsequent changes, additions, deletions, or amendments to a currently-registered arbitration agreement must be resubmitted for review and a review fee will be assessed at that time. The AAA will decline to administer consumer arbitrations arising out of that arbitration agreement where the business fails to pay the review fee.

If a business does not submit its arbitration agreement for review and a consumer arbitration then is filed with the AAA, the AAA will conduct an expedited review at that time. Along with any other filing fees that are owed for that case, the business also will be responsible for paying the nonrefundable review and Registry fee (including any fee for expedited review at the time of filing) for this initial review, which is detailed in the Costs of Arbitration section found at the end of these Rules. The AAA will decline to administer consumer arbitrations arising out of that arbitration agreement if the business declines to pay the review and Registry fee.

After the AAA reviews the submitted consumer clause, receives the annual consumer registry fee, and determines it will administer consumer-related disputes filed pursuant to the consumer clause, the business will be included on the publicly-accessible Consumer Clause Registry. This Consumer Clause Registry maintained by the AAA will contain the name of the business, the address, and the consumer arbitration clause, along with any related documents as deemed necessary by the AAA. The AAA's review of a consumer arbitration clause and determination whether or not to administer arbitrations pursuant to

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that clause is only an administrative determination by the AAA and cannot be relied upon or construed as a legal opinion or advice regarding the enforceability of the arbitration clause. Consumer arbitration agreements may be registered at: **www.adr.org/consumerclauseregistry** or via email at **consumerreview@adr.org.**

For more information concerning the Consumer Clause Registry, please visit the AAA's website at **www.adr.org/consumerclauseregistry.**

The Registry fee to initially review a business's agreement and maintain the clause registry list is a yearly, non-refundable fee for the business's arbitration agreement. Any different arbitration agreements submitted by the same business or its subsidiaries must be submitted for review and are subject to the current review fee.

If the AAA declines to administer a case due to the business's non-compliance with this notification requirement, the parties may choose to submit their dispute to the appropriate court.

R-13. AAA and Delegation of Duties

When the consumer and the business agree to arbitrate under these Rules or other AAA rules, or when they provide for arbitration by the AAA and an arbitration is filed under these Rules, the parties also agree that the AAA will administer the arbitration. The AAA's administrative duties are set forth in the parties' arbitration agreement and in these Rules. The AAA will have the final decision on which office and which AAA staff members will administer the case. Arbitrations administered under these Rules shall only be administered by the AAA or by an individual or organization authorized by the AAA to do so.

R-14. Jurisdiction

(a) The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.

(b) The arbitrator shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause.

(c) A party must object to the jurisdiction of the arbitrator or to the arbitrability of a claim or counterclaim no later than the filing of the answering statement to the claim or counterclaim that gives rise to the objection. The arbitrator may rule on such objections as a preliminary matter or as part of the final award.

Appointing the Arbitrator

R-15. National Roster of Arbitrators

The AAA maintains a National Roster of Arbitrators (“National Roster”) and shall appoint arbitrators from this National Roster to resolve the parties’ dispute(s).

R-16. Appointment from National Roster

(a) If the parties have not appointed an arbitrator and have not agreed to a process for appointing the arbitrator, immediately after the filing of the submission agreement or the answer, or after the deadline for filing the answer, the AAA will administratively appoint an arbitrator from the National Roster.

(b) If the parties’ arbitration agreement provides for three or more arbitrators and they have not appointed the arbitrators and have not agreed to a process for appointing the arbitrators, immediately after the filing of the submission agreement or the answer, or after the deadline for filing the answer, the AAA will administratively appoint the arbitrators from the National Roster. The AAA will appoint the chairperson.

(c) Arbitrator(s) serving under these Rules will be neutral and must meet the standards of R-19 with respect to being impartial and independent.

R-17. Number of Arbitrators

If the arbitration agreement does not specify the number of arbitrators and the parties do not agree on the number, the dispute shall be heard and decided by one arbitrator.

R-18. Disclosure

(a) Any person appointed or to be appointed as an arbitrator, as well as the parties and their representatives, must provide information to the AAA of any circumstances likely to raise justifiable doubt as to whether the arbitrator can remain impartial or independent. This disclosure of information would include

- **(1)** any bias;
- **(2)** any financial interest in the result of the arbitration;
- **(3)** any personal interest in the result of the arbitration; or
- **(4)** any past or present relationship with the parties or their representatives.

Such obligation to provide disclosure information remains in effect throughout the arbitration. A failure on the part of a party or a representative to comply with the

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requirements of this rule may result in the waiver of the right to object to an arbitrator in accordance with Rule R-50.

(b) If the AAA receives such information from the arbitrator or another source, the AAA will communicate the information to the parties. If the AAA decides it is appropriate, it will also communicate the information to the arbitrator and others.

(c) In order to encourage disclosure by arbitrators, disclosing such information does not mean that the arbitrator considers the disclosed information will likely affect his or her ability to be impartial or independent.

R-19. Disqualification of Arbitrator

(a) Any arbitrator shall be impartial and independent and shall perform his or her duties carefully and in good faith. The AAA may disqualify an arbitrator who shows

- **(1)** partiality or lack of independence;
- **(2)** inability or refusal to perform his or her duties with diligence and in good faith; or
- **(3)** any grounds for disqualification provided by applicable law.

(b) If a party objects to the continued service of an arbitrator, or if the AAA should so decide to raise the issue of whether the arbitrator should continue on the case, the AAA will decide if the arbitrator should be disqualified. After gathering the opinions of the parties, the AAA will decide and that decision shall be final and conclusive.

R-20. Vacancies

If for any reason an arbitrator cannot or is unwilling to perform the duties of the office, the AAA may declare the office vacant. Any vacancies shall be filled based on the original procedures used to appoint the arbitrator. If a substitute arbitrator is appointed, the substitute arbitrator will decide if it is necessary to repeat all or part of any prior ruling or hearing.

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Pre-Hearing Preparation

R-21. Preliminary Management Hearing with the Arbitrator

(a) If any party asks for, or if the AAA or the arbitrator decides to hold one, the arbitrator will schedule a preliminary management hearing with the parties and/or their representatives as soon as possible. The preliminary management hearing will be conducted by telephone unless the arbitrator decides an in-person preliminary management hearing is necessary.

(b) During the preliminary management hearing, the parties and the arbitrator should discuss the future conduct of the case, including clarification of issues and claims, scheduling of the hearings, and any other preliminary matters.

(c) The arbitrator shall promptly issue written orders that state the arbitrator's decisions made during or as a result of the preliminary management hearing. The arbitrator may also conduct additional preliminary management hearings if the need arises.

R-22. Exchange of Information between the Parties

(a) If any party asks or if the arbitrator decides on his or her own, keeping in mind that arbitration must remain a fast and economical process, the arbitrator may direct

1) specific documents and other information to be shared between the consumer and business, and

2) that the consumer and business identify the witnesses, if any, they plan to have testify at the hearing.

(b) Any exhibits the parties plan to submit at the hearing need to be shared between the parties at least five business days before the hearing, unless the arbitrator sets a different exchange date.

(c) No other exchange of information beyond what is provided for in section (a) above is contemplated under these Rules, unless an arbitrator determines further information exchange is needed to provide for a fundamentally fair process.

(d) The arbitrator has authority to resolve any disputes between the parties about exchanging information.

R-23. Enforcement Powers of the Arbitrator

The arbitrator may issue any orders necessary to enforce the provisions of rules R-21 and R-22 and to otherwise achieve a fair, efficient, and economical resolution of the case, including, but not limited to:

(a) an order setting the conditions for any exchange or production of confidential documents and information, and the admission of confidential evidence at the hearing in order to preserve such confidentiality;

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(b) to the extent the exchange of information takes place pursuant to R-22, imposing reasonable search limitations for electronic and other documents if the parties are unable to agree;

(c) allocating costs of producing documentation, including electronically-stored documentation;

(d) in the case of willful non-compliance with any order issued by the arbitrator, drawing adverse inferences, excluding evidence and other submissions, and/or making special allocations of costs or an interim award of costs arising from such non-compliance; and

(e) issuing any other enforcement orders that the arbitrator is empowered to issue under applicable law.

R-24. Written Motions (except for Dispositive Motions—see R-33)

The arbitrator may consider a party's request to file a written motion (except for Dispositive Motions— see R-33) only after the parties and the arbitrator conduct a conference call to attempt to resolve the issue that gives rise to the proposed motion. Only after the parties and the arbitrator hold the call may the arbitrator consider a party's request to file a written motion. The arbitrator has the sole discretion to allow or deny the filing of a written motion and his or her decision is final.

R-25. Representation of a Party

Any party may participate in the arbitration without representation, or may be represented by counsel or other authorized representative, unless such choice is prohibited by applicable law. A party intending to be represented shall give the opposing party and the AAA the name, address, and contact information of the representative at least three business days before the hearing where that representative will first appear in the case. It will be considered proper notice if a representative files the arbitration demand or answer or responds for a party during the course of the arbitration.

While parties do not need an attorney to participate in arbitration, arbitration is a final, legally-binding process that may impact a party's rights. As such, parties may want to consider consulting an attorney.

R-26. Setting the Date, Time, and Place (the physical site of the hearing within the designated locale) of Hearing

The arbitrator will set the date, time, and place for each hearing within the locale as determined in R-11. A hearing may be by telephone or in person. For their part, the parties commit to

(1) respond promptly to the arbitrator when he or she asks what dates the parties are available to have the hearings;

(2) cooperate in the scheduling of the hearing on the earliest possible date; and

(3) follow the hearing schedule set up by the arbitrator.

The AAA will send a notice of the hearing to the parties at least 10 days before the hearing date, unless the parties agree to a different time frame.

R-27. Written Record of Hearing

(a) If a party wants a written record of the hearing, that party must make such arrangement directly with a stenographer (court reporter) and notify the opposing parties, the AAA, and the arbitrator of these arrangements at least three business days before the hearing. The party or parties who request the written record shall pay the cost of the service.

(b) No other type of recording will be allowed unless the parties agree or the arbitrator directs a different form of recording.

(c) The arbitrator may resolve disputes between the parties over who will pay the costs of the written record or other type of recording.

(d) The parties can agree or the arbitrator may decide that the transcript (written record) is the official record of the hearing. If it is the official record of the hearing, the transcript must be given to the arbitrator and made available to all the parties so that it can be reviewed. The date, time, and place of the inspection will be decided by the arbitrator.

R-28. Interpreters

If a party wants an interpreter present for any part of the process, that party must make arrangements directly with the interpreter and shall pay for the costs of the service.

R-29. Documents-Only Procedure

Disputes may be resolved by submission of documents and without in-person or telephonic hearings. For cases being decided by the submission of documents only, the *Procedures for the Resolution of Disputes through Document Submission* (found at the end of these Rules) shall supplement these Rules. These Procedures will apply where no disclosed claims or counterclaims exceed $25,000 (see R-1(g)), unless any party requests an in-person or telephonic hearing or the arbitrator decides that a hearing is necessary.

Hearing Procedures

R-30. Attendance at Hearings

The arbitrator and the AAA will keep information about the arbitration private except to the extent that a law provides that such information shall be shared or made public. The parties and their representatives in the arbitration are entitled to attend the hearings. The arbitrator will determine any disputes over whether a non-party may attend the hearing.

R-31. Oaths

Before starting the hearing, each arbitrator may take an oath of office and, if required by law, shall do so. If the arbitrator determines that witnesses shall testify under oath, then the arbitrator will direct the oath be given by a duly-qualified person.

R-32. Conduct of Proceedings

(a) The claimant must present evidence to support its claim. The respondent must then present evidence to support its defense. Witnesses for each party also must answer questions from the arbitrator and the opposing party. The arbitrator may change this procedure, as long as each party has the right to be heard and is given a fair opportunity to present its case.

(b) When the arbitrator decides it is appropriate, the arbitrator may also allow the parties to present evidence in alternative ways, including web conferencing, Internet communication, and telephonic conferences. All procedures must provide the parties with a full and equal opportunity to present any evidence that the arbitrator decides is material and relevant to deciding the dispute. If the alternative ways to present evidence involve witnesses, those ways may include that the witness submit to direct and cross-examination questioning.

(c) The arbitrator will use his or her discretion to resolve the dispute as quickly as possible and may direct the parties to present the evidence in a certain order, or may split the proceedings into multiple parts and direct the parties in the presentation of evidence.

(d) The hearing generally will not exceed one day. However, if a party shows good cause, the arbitrator may schedule additional hearings within seven calendar days after the initial day of hearing.

(e) The parties may agree in writing to waive oral hearings.

R-33. Dispositive Motions

The arbitrator may allow the filing of a dispositive motion if the arbitrator determines that the moving party has shown substantial cause that the motion is likely to succeed and dispose of or narrow the issues in the case.

R-34. Evidence

(a) The parties may offer relevant and material evidence and must produce any evidence the arbitrator decides is necessary to understand and decide the dispute. Following the legal rules of evidence shall not be necessary. All evidence should be taken in the presence of the arbitrator and all of the parties, unless any of the parties is absent, in default, or has waived the right to be present.

(b) The arbitrator shall determine what evidence will be admitted, what evidence is relevant, and what evidence is material to the case. The arbitrator may also exclude evidence that the arbitrator decides is cumulative or not relevant.

(c) The arbitrator shall consider applicable principles of legal privilege, such as those that involve the confidentiality of communications between a lawyer and a client.

(d) An arbitrator or other person authorized by law to subpoena witnesses or documents may do so on the request of any party or on the arbitrator's own determination. If a party requests the arbitrator sign a subpoena, that party shall copy the request to the other parties in the arbitration at the same time it is provided to the arbitrator.

R-35. Evidence by Affidavit and Post-Hearing Filing of Documents or Other Evidence

(a) The arbitrator may receive and consider the evidence of witnesses by declaration or affidavit rather than in-person testimony but will give this evidence only such credence as the arbitrator decides is appropriate. The arbitrator will consider any objection to such evidence made by the opposing party.

(b) If the parties agree or the arbitrator decides that documents or other evidence need to be submitted to the arbitrator after the hearing, those documents or other evidence will be filed with the AAA so that they can be sent to the arbitrator. All parties will be given the opportunity to review and respond to these documents or other evidence.

R-36. Inspection or Investigation

An arbitrator finding it necessary to inspect property or conduct an investigation in connection with the arbitration will request that the AAA inform the parties. The arbitrator will set the date and time of the inspection and investigation, and

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the AAA will notify the parties. Any party who would like to be present at the inspection or investigation may attend. If one or all parties are not present at the inspection or investigation, the arbitrator will make an oral or written report to the parties and allow them an opportunity to comment.

R-37. Interim Measures (a preliminary decision made by the arbitrator involving part or all of the issue(s) in dispute in the arbitration)

(a) The arbitrator may grant whatever interim measures he or she decides are necessary, including granting an injunction and ordering that property be protected.

(b) Such interim measures may take the form of an interim award, and the arbitrator may require a security payment for the costs of such measures.

(c) When making a decision on an interim measure, the arbitrator may grant any remedy, relief, or outcome that the parties could have received in court.

(d) A party to an arbitration agreement under these Rules may instead file in state or federal court for interim relief. Applying to the court for this type of relief, including temporary restraining orders, is consistent with the agreement to arbitrate and will not be considered a waiver of the right to arbitrate.

R-38. Postponements

The arbitrator may postpone any hearing

(a) if requested by a party, and the party shows good cause for the postponement;

(b) if all parties agree to a postponement;

(c) on his or her own decision.

R-39. Arbitration in the Absence of a Party or Representative

The arbitration may proceed even if any party or representative is absent, so long as proper notice was given and that party or representative fails to appear or obtain a postponement from the arbitrator. An award cannot be made only because of the default of a party. The arbitrator shall require the party who participates in the hearing to submit the evidence needed by the arbitrator to make an award.

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Conclusion of the Hearing

R-40. Closing of Hearing

The arbitrator must specifically ask all parties whether they have any further proofs to offer or witnesses to be heard. When the arbitrator receives negative replies or he or she is satisfied that the record is complete, the arbitrator will declare the hearing closed.

If briefs or other written documentation are to be filed by the parties, the hearing shall be declared closed as of the final date set by the arbitrator. Absent agreement of the parties, the time that the arbitrator has to make the award begins upon the closing of the hearing. The AAA may extend the time limit for the rendering of the award only in unusual and extreme circumstances.

R-41. Reopening of Hearing

If a party requests, or if the arbitrator decides to do so, the hearing may be reopened at any time before the award is made. If reopening the hearing would prevent the making of the award within the specific time agreed on by the parties in the contract(s) out of which the controversy has arisen, the matter may not be reopened unless the parties agree on an extension of time. If the arbitrator reopens the hearing, he or she shall have 30 days from the closing of the reopened hearing within which to make an award.

R-42. Time of Award

The award shall be issued promptly by the arbitrator and, unless the parties agree differently or the law indicates a different time frame, no later than 30 calendar days from the date the hearing is closed, or, if the case is a documents-only procedure, 14 calendar days from the date the arbitrator set for his or her receipt of the final statements and proofs. The AAA may extend the time limit for the rendering of the award only in unusual and extreme circumstances.

R-43. Form of Award

(a) Any award shall be in writing and executed in the form and manner required by law.

(b) The award shall provide the concise written reasons for the decision unless the parties all agree otherwise. Any disagreements over the form of the award shall be decided by the arbitrator.

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(c) The AAA may choose to publish an award rendered under these Rules; however, the names of the parties and witnesses will be removed from awards that are published, unless a party agrees in writing to have its name included in the award.

R-44. Scope of Award

(a) The arbitrator may grant any remedy, relief, or outcome that the parties could have received in court, including awards of attorney's fees and costs, in accordance with the law(s) that applies to the case.

(b) In addition to a final award, the arbitrator may make other decisions, including interim, interlocutory, or partial rulings, orders, and awards. In any interim, interlocutory, or partial award, the arbitrator may assess and divide up the fees, expenses, and compensation related to such award as the arbitrator decides is appropriate, subject to the provisions and limitations contained in the Costs of Arbitration section.

(c) The arbitrator may also allocate compensation, expenses as defined in sections (v) and (vii) of the Costs of Arbitration section, and administrative fees (which include Filing and Hearing Fees) to any party upon the arbitrator's determination that the party's claim or counterclaim was filed for purposes of harassment or is patently frivolous.

(d) In the final award, the arbitrator shall assess the fees, expenses, and compensation provided in Sections R-4, R-5, and R-7 in favor of any party, subject to the provisions and limitations contained in the Costs of Arbitration section.

R-45. Award upon Settlement

If the parties settle their dispute at any point during the arbitration and at the parties' request, the arbitrator may lay out the terms of the settlement in a "consent award" (an award drafted and signed by the arbitrator that reflects the settlement terms of the parties). A consent award must include a division of the arbitration costs, including administrative fees and expenses as well as arbitrator fees and expenses. Consent awards will not be made available to the public per Rule 43(c) unless the parties agree otherwise.

R-46. Delivery of Award to Parties

Parties shall accept as notice and delivery of the award the placing of the award or a true copy thereof in the mail addressed to the parties or their representatives at the last known addresses, personal or electronic service of the award, or the filing of the award in any other manner that is permitted by law.

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R-47. Modification of Award for Clerical, Typographical, or Mathematical Errors

(a) Within 20 days after the award is transmitted, any party, upon notice to the opposing parties, may contact the AAA and request that the arbitrator correct any clerical, typographical, or mathematical errors in the award. The arbitrator has no power to re-determine the merits of any claim already decided.

(b) The opposing parties shall be given 10 days to respond to the request. The arbitrator shall make a decision on the request within 20 days after the AAA transmits the request and any responses to the arbitrator.

(c) If applicable law provides a different procedural time frame, that procedure shall be followed.

R-48. Release of Documents for Judicial Proceedings

The AAA shall give a party certified copies of any records in the AAA's possession that may be required in judicial proceedings relating to the arbitration, except for records determined by the AAA to be privileged or confidential. The party will have to pay a fee for this service.

R-49. Applications to Court and Exclusion of Liability

(a) No court or judicial proceeding by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the AAA nor any arbitrator in a proceeding under these Rules is a necessary or proper party in judicial proceedings relating to the arbitration.

(c) Parties to an arbitration under these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.

(d) Parties to an arbitration under these Rules shall be deemed to have consented that neither the AAA, AAA employees, nor any arbitrator shall be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any arbitration under these rules.

(e) Parties to an arbitration under these Rules may not call the arbitrator, the AAA, or any AAA employee as a witness in litigation or any other proceeding relating to the arbitration. The arbitrator, the AAA, and AAA employees are not competent to and may not testify as witnesses in any such proceeding.

R-50. Waiver of Rules

If a party knows that any of these Rules have not been followed, it must object in writing before proceeding with arbitration or it will lose its right to object that the rule has not been followed.

R-51. Extensions of Time

The parties may agree to change any period of time provided for in the Rules, except that any such modification that negatively affects the efficient resolution of the dispute is subject to review and approval by the arbitrator. The AAA or the arbitrator may for good cause extend any period of time in these Rules, except as set forth in R-42. The AAA will notify the parties of any extension.

R-52. Serving of Notice and AAA and Arbitrator Communications

(a) Any papers or notices necessary for the initiation or continuation of an arbitration under these Rules, or for the entry of judgment on any award made under these Rules, may be served on a party by mail or email addressed to the party or its representative at the last-known address or by personal service, in or outside the state where the arbitration is to be held, provided that reasonable opportunity to be heard with regard to the dispute is or has been granted to the party.

(b) The AAA, the arbitrator, and the parties also may use overnight delivery, electronic facsimile transmission (fax), or electronic mail (email) to give the notices required by these rules. Where all parties and the arbitrator agree, notices may be sent by other methods of communication.

(c) Unless directed differently by the AAA or by the arbitrator, any documents and all written communications submitted by any party to the AAA or to the arbitrator also shall be sent at the same time to all parties to the arbitration.

(d) A failure to provide the other parties with copies of communications made to the AAA or to the arbitrator may prevent the AAA or the arbitrator from acting on any requests or objections contained within those communications.

(e) A party and/or someone acting on behalf of a party cannot have any communications with an arbitrator or a potential arbitrator about the arbitration outside of the presence of the opposing party. All such communications shall be conducted through the AAA.

(f) The AAA may direct that any oral or written communications that are sent by a party or their representative shall be sent in a particular manner. The failure of a party or its representative to do so may result in the AAA's refusal to consider the issue raised in the communication.

R-53. Interpretation and Application of Rules

The arbitrator shall interpret and apply these Rules as they relate to the arbitrator's powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of these Rules, it shall be decided by a majority vote. If that is not possible, either an arbitrator or a party may refer the question to the AAA for final decision. All other Rules shall be interpreted and applied by the AAA.

R-54. Remedies for Nonpayment

(a) If arbitrator compensation or administrative charges have not been paid in full, the AAA may inform the parties so that one of them may forward the required payment.

(b) Once the AAA informs the parties that payments have not been received, a party may request an order from the arbitrator directing what measures might be taken in light of a party's nonpayment.

Such measures may include limiting a party's ability to assert or pursue its claim. However, a party shall never be precluded from defending a claim or counterclaim. The arbitrator must provide the party opposing a request for relief with the opportunity to respond prior to making any determination. In the event that the arbitrator grants any request for relief that limits any party's participation in the arbitration, the arbitrator will require the party who is making a claim and who has made appropriate payments to submit the evidence required to make an award.

(c) Upon receipt of information from the AAA that full payments have not been received, the arbitrator, on the arbitrator's own initiative, may order the suspension of the arbitration. If no arbitrator has yet been appointed, the AAA may suspend the proceedings.

(d) If arbitrator compensation or AAA administrative fees remain unpaid after a determination to suspend an arbitration due to nonpayment, the arbitrator has the authority to terminate the proceedings. Such an order shall be in writing and signed by the arbitrator. The impact of the termination for nonpayment of the Consumer Clause Registry fee is the removal from the "Registered" section of the Registry.

R-55. Declining or Ceasing Arbitration

The AAA in its sole discretion may decline to accept a Demand for Arbitration or stop the administration of an ongoing arbitration due to a party's improper conduct, including threatening or harassing behavior towards any AAA staff, an arbitrator, or a party or party's representative.

Costs of Arbitration (including AAA Administrative Fees)*

Arbitrator compensation is not included as part of the administrative fees charged by the AAA. Arbitrator compensation is based on a rate established by the AAA as set forth below. If a Preliminary Management Hearing is held by the arbitrator, the arbitrator is entitled to one-half the arbitration compensation rate for a full hearing day or a documents-only hearing. Once evidentiary hearings are held, the arbitrator is entitled to the full-day rate of compensation. The business shall pay the arbitrator's compensation unless the consumer, post dispute, voluntarily elects to pay a portion of the arbitrator's compensation. Arbitrator compensation, expenses as defined in sections (v) and (vii) below, and administrative fees (which include Filing and Hearing Fees) are not subject to reallocation by the arbitrator(s) except as may be required by applicable law or upon the arbitrator's determination that a claim or counterclaim was filed for purposes of harassment or is patently frivolous.

* *Pursuant to Section 1284.3 of the California Code of Civil Procedure, consumers with a gross monthly income of less than 300% of the federal poverty guidelines are entitled to a waiver of arbitration fees and costs, exclusive of arbitrator fees. This law applies to all consumer agreements subject to the California Arbitration Act, and to all consumer arbitrations conducted in California. If you believe that you meet these requirements, you must submit to the AAA a declaration under oath regarding your monthly income and the number of persons in your household. Please contact the AAA at 1-800-778-7879, if you have any questions regarding the waiver of administrative fees. (Effective January 1, 2003)*

Party	Desk Arbitration	In-Person or Telephonic Hearing – Single Arbitrator	In-Person or Telephonic Hearing – Three Or More Arbitrators
Consumer	Filing Fee—$200 (nonrefundable)	Filing Fee—$200 (nonrefundable)	Filing Fee—$200 (nonrefundable)
Business	Filing Fee—$1,700 Arbitrator Compensation—$750 per case	Filing Fee—$1,700 Hearing Fee—$500 Arbitrator Compensation—$1,500 per hearing day	Filing Fee—$2,200 Hearing Fee—$500 Arbitrator Compensation—$1,500 per hearing day per arbitrator

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(i) Filing Fees

In cases before a single arbitrator, a nonrefundable filing fee capped in the amount of $200 is payable in full by the consumer when a case is filed, unless the parties' agreement provides that the consumer pay less. A partially refundable fee in the amount of $1,700 is payable in full by the business, unless the parties' agreement provides that the business pay more. This fee is due from the business once the consumer has met the filing requirements.

In cases before three or more arbitrators, a nonrefundable filing fee capped in the amount of $200 is payable in full by the consumer when a case is filed, unless the parties' agreement provides that the consumer pay less. A partially refundable fee in the amount of $2,200 is payable in full by the business, unless the parties' agreement provides that the business pay more. This fee is due from the business once the consumer has met the filing requirements.

There shall be no filing fee charged for a counterclaim.

The AAA reserves the right to assess additional administrative fees for services performed by the AAA beyond those provided for in these Rules and which may be required by the parties' agreement or stipulation.

(ii) Neutral Arbitrator's Compensation

Arbitrators serving on a case with an in-person or telephonic hearing will receive compensation at a rate of **$1,500 per day.**

Arbitrators serving on a case with a desk arbitration/documents-only hearing will receive compensation at a rate of **$750 per case.**

The AAA reserves the right to raise the daily or per-case arbitrator compensation rate because of the complexity of the case or for processes and procedures beyond those provided for in these Rules and which may be required by the parties' requests, agreement, or stipulation (1) at the time of the AAA's initiation of the case; (2) upon the addition of a new party; (3) when a change of claim is made and, if necessary, approved by the arbitrator(s); (4) or if circumstances arise during the course of the case due to the complexity of issues and submissions by the parties. Any determination by the AAA on compensation rates is in the sole discretion of the AAA and such decision is final and binding on the parties and arbitrator.

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(iii) Refund Schedule

Once the claimant has met the filing requirements, refunds to the business will be calculated as follows:

- if the case is settled or withdrawn within 30 calendar days, 50% of the filing fee will be refunded to the business.

However, no refund of the filing fee will be made once an arbitrator has been appointed and no refunds will be made on awarded cases. The date the claimant's filing requirements are met is the date used to calculate any refund of filing fees. If the matter is settled or withdrawn prior to receipt of filing fees from the business, the AAA will bill the business in accordance with this refund schedule.

(iv) Hearing Fees

For telephonic hearings or in-person hearings held, an additional administrative fee of $500 is payable by the business.

There is no AAA hearing fee for the initial Administrative Conference (see R-10).

(v) Hearing Room Rental

The hearing fees described above do not cover the rental of hearing rooms. The AAA maintains rental hearing rooms in most offices for the convenience of the parties. Check with the administrator for availability and rates. Hearing room rental fees will be borne by the business.

(vi) Abeyance Fee

Parties on cases held as inactive for one year will be assessed an annual abeyance fee of $300. If a party refuses to pay the assessed fee, the opposing party or parties may pay the entire fee on behalf of all parties, otherwise the matter will be administratively closed. All filing requirements, including payment of filing fees, must be met before a matter may be placed in abeyance.

(vii) Expenses

All expenses of the arbitrator, including required travel and other expenses, and any AAA expenses, as well as the costs relating to proof and witnesses produced at the direction of the arbitrator, shall be borne by the business.

(viii) Consumer Clause Review and Registry Fee

Please note that all fees described below are **nonrefundable.**

For businesses submitting a clause, the cost of reviewing the clause and maintaining that clause on the Registry is $500. A yearly Registry fee of $500 will be charged to maintain each clause on the Registry for each calendar year thereafter.

If the AAA receives a demand for consumer arbitration from an arbitration clause that was not previously submitted to the AAA for review and placement on the Registry, the business will incur an additional $250 fee to conduct an expedited review of the clause.

Any subsequent changes, additions, deletions, or amendments to currently registered arbitration agreement must be resubmitted for review and a review fee of $500 will assessed at that time.

Procedures for the Resolution of Disputes through Document Submission

D-1. Applicability

(a) In any case, regardless of claim size, the parties may agree to waive in-person/telephonic hearings and resolve the dispute through submission of documents to one arbitrator. Such agreement should be confirmed in writing no later than the deadline for the filing of an answer.

(b) Where no disclosed claims or counterclaims exceed $25,000, the dispute shall be resolved by these Procedures, unless a party asks for a hearing or the arbitrator decides that a hearing is necessary.

(c) If one party makes a request to use the *Procedures for the Resolution of Disputes through Document Submission* (Procedures) and the opposing party is unresponsive, the arbitrator shall have the power to determine whether to proceed under the Procedures. If both parties seek to use the Procedures after the appointment of an arbitrator, the arbitrator must also consent to the process.

(d) When parties agree to these Procedures, the procedures in Sections D-1 through D-4 of these Rules shall supplement other portions of these rules which are not in conflict with the Procedures.

D-2. Preliminary Management Hearing

Within 14 calendar days of confirmation of the arbitrator's appointment, the arbitrator shall convene a preliminary management hearing, via conference call, video conference, or internet, to establish a fair and equitable procedure for the submission of documents, and, if the arbitrator deems appropriate, a schedule for one or more telephonic or electronic conferences.

D-3. Removal from the Procedures

(a) The arbitrator has the discretion to remove the case from the Procedures if the arbitrator determines that an in-person or telephonic hearing is necessary.

(b) If the parties agree to in-person or telephonic hearings after a previous agreement to proceed under the Procedures, the arbitrator shall conduct such hearings. If a party seeks to have in-person or telephonic hearings after agreeing to the Procedures, but there is not agreement among the parties to proceed with in-person or telephonic hearings, the arbitrator shall resolve the issue after the parties have been given the opportunity to provide their respective positions on the issue.

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D-4. Time of Award

(a) The arbitrator shall establish the date for either final written submissions or a final telephonic or electronic conference. Such date shall operate to close the hearing, and the time for the rendering of the award shall commence on that day as well.

(b) The arbitrator shall render the award within 14 calendar days from the date the hearing is closed.

(c) The award is subject to all other provisions of these Rules that pertain to awards.

Glossary of Terms

Administrator

The Administrator's role is to manage the administrative aspects of the arbitration, such as the appointment of the arbitrator, to make preliminary decisions about where hearings might take place, and to handle the fees associated with the arbitration. As Administrator, however, the Administrator does not decide the merits of a case or make any rulings on issues such as what documents must be shared with each side. Because the Administrator's role is only administrative, the Administrator cannot overrule or change an arbitrator's decisions or rulings. The Administrator will comply with any court orders issued from litigation involving the parties to the dispute.

ADR Agreement

An ADR Agreement is an agreement between a business and a consumer to submit disputes to mediation, arbitration, or other ADR processes.

ADR Process

An ADR (Alternative Dispute Resolution) Process is a method of resolving a dispute other than by court litigation. Mediation and Arbitration are the most widely used ADR processes.

ADR Program

An ADR Program is any program or service set up or used by a business to resolve disputes out of court.

Arbitration

In arbitration, the parties submit disputes to an impartial person (the arbitrator) for a decision. Each party can present evidence to the arbitrator. Arbitrators do not have to follow the Rules of Evidence used in court.

Arbitrators decide cases with written decisions or "awards." An award is usually binding on the parties. A court may enforce an arbitration award and the court's review of arbitration awards is limited.

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Arbitration Agreement

An arbitration agreement is a contract between parties to settle their disputes by binding arbitration. It is typically found in the parties' contract in a section entitled "Arbitration" or "Dispute Resolution." It gives the parties information about how they are choosing to settle any disputes that they might have.

Arbitrator

Arbitrators are neutral and independent decision makers who are not employees of the administrator. Except where the parties to a case reach their own settlement, the Arbitrator will make the final, binding decision on the dispute and render it in writing, called the Award. The Arbitrator makes all the procedural decisions on a case not made by the administrator or not decided jointly by the parties. The Arbitrator may grant any remedy, relief, or outcome that the parties could have received in court, including awards of attorney's fees and costs, in accordance with the law(s) that applies to the case.

Once appointed to a case, an Arbitrator may not be removed by one party without the other party's consent or unless the administrator determines an Arbitrator should be removed and replaced by another Arbitrator chosen by the administrator in a manner described in these Rules.

Case Administrator

The Case Administrator is the AAA's employee assigned to handle the administrative aspects of the case. He or she does not decide the case. He or she manages the case's administrative steps, such as exchanging documents, matching schedules, and setting up hearings. The Case Administrator is the parties' contact point for almost all aspects of the case outside of any hearings.

Claimant

A Claimant is the party who files the claim or starts the arbitration. Either the consumer or the business may be the Claimant.

Demand for Arbitration (also referred to as "Demand")

The written document created by the claimant that informs the respondent that it wishes to arbitrate a dispute. This document provides basic information about the dispute, the parties involved and what the claimant wants as a result of the arbitration.

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Documents-Only Arbitration

In a Documents-Only Arbitration, the parties submit their arguments and evidence to the arbitrator in writing. The arbitrator then makes an award based only on the documents. No in-person or telephone hearing is held.

Independent ADR Institution

An Independent ADR Institution is an organization that provides independent and impartial administration of ADR programs for consumers and businesses. The American Arbitration Association is an Independent ADR Institution.

In-Person Hearing

During an In-Person Hearing, the parties and the arbitrator meet in a conference room or office and the parties present their evidence in a process that is similar to going to court. However, an In-Person Hearing is not as formal as going to court.

Mediation

In Mediation, an impartial person (the mediator) helps the parties try to settle their dispute by reaching an agreement together. A mediator's role is to help the parties come to an agreement. A mediator does not arbitrate or decide the outcome.

Neutral

A "Neutral" is a mediator, arbitrator, or other independent, impartial person selected to serve as the independent third party in an ADR process.

Party

The party is the person(s) or business that is involved in the dispute in the arbitration process. Usually, these are the people or businesses that have an arbitration agreement between them that specifies that a dispute should be resolved by arbitration.

Parties

Parties are all the separate individuals, businesses, or organizations involved in the arbitration.

Opposing Party

The opposing party is the other party that is on the opposite side of the arbitration from you. If you are the claimant, the Opposing Party is the respondent. If you are the respondent, the Opposing Party is the claimant. If you are the consumer, the Opposing Party is the business. If you are the business, the Opposing Party is the consumer.

Respondent

The respondent is the party against whom the claim is filed. If a Respondent states a claim in arbitration, it is called a counterclaim. Either the consumer or the business may be the Respondent.

Telephone Hearing

In a Telephone Hearing, the parties have the opportunity to tell the arbitrator about their case during a conference call. They also present their evidence to the arbitrator during the call. Often this is done after the parties have sent in documents for the arbitrator to review.

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